Australian Government
Anti-Dumping Commission

PUBLIC RECORD

CUSTOMS ACT 1901 - PART XVB

REPORT NUMBER 221

DUMPING OF WIND TOWERS

EXPORTED FROM

THE PEOPLE'S REPUBLIC OF CHINA

AND THE REPUBLIC OF KOREA

21 March 2014

CONTENTS

ABBREVIATIONS

$	Australian dollars
ACBPS	Australian Customs and Border Protection Service
ADN	Australian Dumping Notice
The Act	*Customs Act 1901*
ADN	Anti-Dumping Notice
The applicants	A.C.N. 009 483 694 Pty Ltd and Keppel Prince Engineering Pty Ltd
CFR	Cost and freight
COGS	Cost of goods sold
Commission	Anti-Dumping Commission
CTM	Cost to make
CTMS	Cost to make & sell
CTS	Cost to sell
EBIT	Earnings before interest and tax
EDITA	Earnings before interest, tax, depreciation and amortisation
FOB	Free On Board
GAAP	Generally accepted accounting principles
NIP	Non-Injurious Price
PAD	Preliminary Affirmative Determination
Parliamentary Secretary	The Parliamentary Secretary to the Minister for Industry
SEF	Statement of Essential Facts
the goods	the goods the subject of the application (also referred to as the goods under consideration or GUC)
The Commissioner	The Commissioner of the Anti-Dumping Commission
the Minister	the Minister for Industry
USP	Unsuppressed Selling Price

1 SUMMARY AND RECOMMENDATIONS

This investigation is in response to an application by A.C.N. 009 483 694 Pty Ltd (Haywards) and Keppel Prince Engineering Pty Ltd (Keppel Prince) into the dumping of wind towers exported to Australia from the People's Republic of China (China) and the Republic of Korea (Korea).

This report, Report No 221 (REP221), sets out the Commissioner of the Anti-Dumping Commission's (the Commissioner's) recommendations to the Parliamentary Secretary to the Minister for Industry (the Parliamentary Secretary) in relation to the application.

In December 2013, the Minister for Industry (the Minister) delegated responsibility for decision making on operational matters under Parts XVB and XVC of the *Customs Act 1901*[1] (the Act) and other anti-dumping legislation to the Parliamentary Secretary.

1.1 Recommendation

The Commissioner recommends the Parliamentary Secretary publish a dumping duty notice in respect of wind towers exported to Australia from China and Korea.

If the Parliamentary Secretary accepts these recommendations the relevant notices and schedules, under s.269TG(1) and s.269TG(2) of the Act, and s.8 and s.10 of the *Customs Tariff (Anti-Dumping) Act 1975* (the Dumping Duty Act) must be signed to give effect to the decision.

1.2 Application of law to facts

1.2.1 Authority to make decision

Division 2 of Part XVB of the Act sets out, among other matters, the procedures to be followed and the matters to be considered by the Commissioner in conducting investigations in relation to the goods covered by an application.

1.2.2 Application

On 16 August 2013, Keppel Prince and Haywards lodged an application requesting that the Minister responsible for anti-dumping publish a dumping duty notice in relation to wind towers exported to Australia from China and Korea.

1.2.3 Initiation of investigation

After examining the application, the Commissioner was satisfied that:

- the application complied with subsection 269TB(4) being in writing, in an approved form, contained required information, was signed and supported by a sufficient part of the Australian industry;
- there is an Australian industry in respect of like goods; and
- there appeared to be reasonable grounds for the publication of a dumping duty notice in respect of goods the subject of the application.

[1] A reference to a division, section or subsection in this report is a reference to a provision of the *Customs Act 1901*, unless otherwise specified. The use of section, subsection and s. are interchangeable throughout this report.

Following consideration of the application an investigation was initiated with public notification of initiation of the investigation made on 28 August 2013 in *The Australian* newspaper and Anti-Dumping Notice No. (ADN) 2013/68. The investigation period[2] for the purpose of assessing dumping is 1 January 2012 to 30 June 2013 and the injury analysis period for the purpose of determining whether material injury has been caused to the Australian industry is from January 2008.

1.2.4 Preliminary affirmative determination PAD221

The delegate of the Commissioner, after having regard to the application, submissions and other matters considered relevant was satisfied that there appeared to be sufficient grounds for the publication of a dumping duty notice in respect of wind towers exported to Australia from China and Korea and made a preliminary affirmative determination (PAD)[3] to that effect on 6 December 2013. PAD Report No 221 was placed on the public record, the PAD is available online at http://www.adcommission.gov.au/cases/documents/018-PAD221.pdf.

Australian Customs and Border Protection Service (ACBPS) are responsible for the collection of securities[4] in respect of any interim dumping duty that may become payable in respect of the goods from China and Korea that were entered into home consumption on or after 6 December 2013.

1.2.5 Statement of essential facts SEF221

The Commissioner must, within 110 days after the initiation of an investigation, or such longer period as the Parliamentary Secretary allows, place on the public record a statement of essential facts (SEF) on which the Commissioner proposes to base his recommendation in relation to the application.

The Commissioner requested an extension of the deadline for the publication of the SEF, which the Minister approved pursuant to section 269ZHI, extending the deadline for the publication of the SEF to 4 February 2014.

On 4 February 2014, the Commissioner placed on the public record SEF221.

Interested parties were invited to lodge submissions to SEF221 by no later than 24 February 2014.

The public record contains non-confidential submissions by interested parties, the non-confidential versions of the Commission's visit reports and other publicly available documents. Documents are available on request in hard copy in Canberra or online at http://www.adcommission.gov.au/cases/EPR221.asp.

Documents on the public record should be read in conjunction with this report.

1.2.6 Report 221

In formulating the final report the Commissioner must have regard to the application concerned, any submissions concerning the publication of the notice to which the delegate of the Commissioner has had regard to for the purpose of formulating SEF221,

---

[2] s.269T(1) refers.
[3] s.269TD
[4] s.42

any submission in response to SEF221 received by the Commission within 20 days of the publication of the SEF, and any other matters considered relevant.[5]

1.3 Findings and conclusions

The Commission has made the following findings and conclusions based on available information provided during the course of the investigation.

1.3.1 The goods and like goods (chapter 3 of this report)

Locally produced wind towers are like goods to the goods the subject of the application.

1.3.2 Australian industry (chapter 3 of this report)

There is an Australian industry producing like goods, comprising Haywards, Keppel Prince and E&A Contractors.

1.3.3 Market (chapter 4 of this report)

The size of the Australian market for wind towers comprised 240 wind towers in calendar year 2012 and 51 wind towers in the first six months of 2013. The Australian market for wind towers is supplied by industry members and imports from China, Korea, the Socialist Republic of Vietnam (Vietnam) and the Republic of Indonesia (Indonesia).

The Australian industry comprises Haywards, Keppel Prince, E&A Contractors and RPG Aus Administration Pty Ltd, (RPG). RPG was placed in administration in October 2012 and wound up in February 2013.

Both Australian and overseas wind tower manufacturers supply wind towers directly to either the original equipment manufacturer (OEM) turbine producers or the contracted Engineer Procurement and Construct (EPC) firm.

1.3.4 Market situation (chapter 5 of this report)

The Commission found that domestic sales of wind towers were not relevant for the purposes of determining normal values due to significant differences between the exported goods and like goods sold domestically in China, and as a result reasonable adjustments could not be undertaken to ensure proper comparison. This reflects that wind towers are capital equipment that are manufactured and deigned for unique projects.

Therefore the Commission considers that domestic sales of wind towers could not be used to establish normal values. Accordingly, the consideration of whether a market situation existed is redundant.

In addition the Commission finds the conditions under Regulation 180 of the *Customs Regulations 1926* have not been met as the raw material costs for plate steel and flanges do not reasonably reflect competitive market costs associated with the production or manufacture of like goods. The Commission has therefore uplifted the prices of steel plate and flanges used in the constructed normal value for China using available information from previous and present investigations into steel and plate steel.

[5] s.269TEA(3)

1.3.5 Dumping (chapter 6 of this report)

The Commission has established that during the investigation period there were two exporters of wind towers, one from China - Shanghai Taisheng Wind Power Equipment Co. Ltd (TSP) and one from Korea - Win&P Ltd (Win&P).

The Commission's assessment of dumping margins for wind towers exported to Australia from China and Korea is tabulated below.

Country	Exporter	Dumping margin
China	TSP	15.0%
	All other exporters	15.6%
Korea	Win&P	17.2%
	All other exporters	18.8%

1.3.6 Injury assessment (chapter 7 of this report)

The Commission is satisfied that the Australian industry suffered material injury as a result of dumped imports from China and Korea in the form of:

- loss of sales volume;
- loss of market share;
- reduced revenues;
- price depression;
- price suppression;
- reduced profits;
- reduced profitability;
- reduced capacity utilisation;
- decline in assets and capital investment;
- reduced return on investment; and
- loss of employment.

1.3.7 Will dumping and material injury continue (chapter 8 of this report)

The Commission is satisfied that dumping and material injury will continue if measures are not imposed.

1.3.8 Non-Injurious price (chapter 9 of this report)

The Commission has assessed that it is appropriate to recommend that the non-injurious prices (NIPs) of the goods exported to Australia be set by reference to the corresponding normal values during the investigation period.

1.3.9 Proposed measures (chapter 10 of this report)

The Commission has derived NIPs at the level of normal values for respective exporters. This means that the lesser duty rule does not come into effect and the proposed measures are set at the full margin of dumping.

The Commission recommends that the Parliamentary Secretary determine the amount of interim dumping duty payable be worked out in an ad valorem form to be calculated as a percentage of the particular export price.

2 BACKGROUND

2.1 Previous investigations

There have been no previous investigations in Australia in regards to wind towers.

2.2 Participation

The following interested parties provided submissions and information to the Commission. Non-confidential versions were placed on the public record except where noted:

Australian industry

Keppel Prince – the company was visited and financial information on costs and sales verified. Keppel Prince also provided submissions to the investigation.

Haywards – the company was visited and financial information on costs and sales verified. The information, mainly financial, was not placed on the public record.

E&A Contractors – provided information on costs and sales, the information was not verified. The information, mainly financial, was not placed on the public record.

Exporters

Win&P – the sole exporter of the goods from Korea. The goods were imported for the Mt Mercer wind farm. Win&P was visited and financial information on costs and sales verified. Win&P also provided submissions to the investigation.

TSP - the sole exporter of the goods from China. The goods were imported for the Gullen Range wind farm. TSP was visited and financial information on costs and sales verified. TSP also provided submissions to the investigation.

Titan Wind Energy (Suzhou) Co Ltd (Titan) – a manufacturer of wind towers in China, Titan did not export wind towers to Australia in the investigation period. Titan provided a submission advising it had exported wind towers prior to the investigation period and intended to continue serving the Australian market. Titan provided a submission to the investigation covering matters including goods, injury, dumping and the alleged market situation in China.

Importers, wind unit suppliers

Senvion SE (Senvion). Formerly known as REpower Australia Pty Ltd, a global supplier of wind units and an importer of the goods from Korea for the Mt Mercer wind farm. Senvion submitted it has been supplying the Australian market for over ten years and has approximately 30% of the Australian wind energy market. Senvion provided detailed information on its imports from Korea and the Mt Mercer tender. Senvion also provided submissions to the investigation.

Goldwind Australia Pty Ltd (Goldwind) – an importer of the goods from China for the Gullen Range wind farm in which it is a major investor. Goldwind provided detailed information on its imports from China and the Mortons Lane and Gullen Range tenders. Goldwind's parent company is a global supplier of wind units. Goldwind also provided submissions to the investigation.

Siemens Ltd (Siemens) – Siemens is a supplier of wind units and imported wind towers during the investigation period for the Snowtown II wind farm. Siemens imported the wind

towers from a country other than China or Korea, Siemens requested that the origin of the wind towers it imported not be disclosed.. Siemens provided information on those imports. No information from Siemens was placed on the public record except a one page summary noting the information received.

GE Energy (GE) – a global supplier of wind units. GE supplied units for the Mumbida wind farm in Western Australia, (contracted before the investigation period) and initiated the tender process for the Boco Rock wind farm (after the investigation period). GE did not import during the investigation period. GE provided a submission on the market and Boco Rock.

2.3 Responses to the SEF

In formulating this report to the Parliamentary Secretary, the Commissioner has had regard to:

- the application concerned;
- any submissions concerning publication of the notice to which the Commissioner has had regard for the purpose of formulating SEF221;
- SEF221;
- any submission in response to SEF221 received by the Commission within 20 days after the day that statement was placed on the Public Record; and
- any other matters considered relevant.

The Commissioner received submissions in response to SEF221 from the following parties:

- Win&P;
- The Government of Korea (GOK);
- Goldwind;
- Senvion; and
- The Australian industry (industry), represented by applicants Keppel Prince and Haywards.

The Commission met with Win&P and the GOK on 26 February 2014 to discuss matters relating to the exporter verification.

In addition to the submissions listed above, the Commissioner also had regard to submissions from Win&P that were received prior to the SEF and were not able to be addressed at the time.

Non-confidential copies of all submissions, including matters discussed at the meeting of 26 February 2014 were placed on the public record.

3 THE GOODS, LIKE GOODS AND AUSTRALIAN INDUSTRY

3.1 Findings

The Commission has found that there is an Australian industry producing like goods to the goods the subject of the application (the goods).

3.2 Legislative framework

Subsection 269TC(1) requires that the Commissioner must reject an application for a dumping duty notice if, inter alia, the Commissioner is not satisfied that there is, or is likely to be established, an Australian industry in respect of like goods.

In making this assessment, the Commissioner must firstly determine that the goods produced by the Australian industry are "like" to the imported goods. Subsection 269T(1) defines like goods as:

> "G*oods that are identical in all respects to the goods under consideration or that, although not alike in all respects to the goods under consideration, have characteristics closely resembling those of the goods under consideration"*.

An Australian industry can apply for relief from injury caused by dumped or subsidised imports even if the goods it produces are not identical to those imported. The industry must however, produce goods that are "like" to the imported goods.

Where the locally produced goods and the imported goods are not alike in all respects, the Commission assesses whether they have characteristics closely resembling each other against the following considerations:

i. physical likeness;

ii. commercial likeness;

iii. functional likeness; and

iv. production likeness.

The Commissioner must also be satisfied that the "like" goods are in fact produced in Australia. Subsections 269T(2) and 269T(3) specify that for goods to be regarded as being produced in Australia, they must be wholly or partly manufactured in Australia. In order for the goods to be considered as partly manufactured in Australia, at least one substantial process in the manufacture of the goods must be carried out in Australia.

3.3 The goods

The goods the subject of the investigation, (the goods), are wind towers. The applicants describe the goods as:

> *certain utility scale wind towers, whether or not tapered, and sections thereof (whether exported assembled or unassembled), and whether or not including an embed being a tower foundation section.*

Further the applicants detailed that wind towers are designed to support the nacelle (an enclosure for an engine) and rotor blades for use in wind turbines that have electrical power generation capacities equal to or in excess of 1.00 megawatt (MW) and with a

minimum height of 50 metres measured from the base of the tower to the bottom of the nacelle (i.e. where the top of the tower and nacelle are joined) when fully assembled.

A wind tower section consists of, at a minimum, multiple steel plates rolled into cylindrical or conical shapes and welded together (or otherwise attached) to form a steel shell, regardless of coating, end-finish, painting, treatment or method of manufacture, and with or without flanges, doors, or internal or external components (e.g., flooring/decking, ladders, lifts, electrical junction boxes, electrical cabling, conduit, cable harness for nacelle generator, interior lighting, tool and storage lockers) attached to the wind tower section.

Goods specifically excluded from the scope are nacelles and rotor blades, regardless of whether they are attached to the wind tower. Also excluded are any internal or external components which are not attached to the wind towers or sections thereof.

The description of the goods states "tower sections …..whether or not including an embed being a tower foundation section". The Commission notes that wind towers for different wind farm projects may or may not require a foundation section depending on the tower specifications. For those projects where wind towers and embeds are specified, the embeds may be shipped and installed at different times to the tower sections. The Commission takes the view that the different shipment times do not detract from the embeds being considered as part of the goods.

3.3.1 Tariff classifications

The goods may be classified to sub heading 7308.20.00 (statistical code 02) in Schedule 3 to the *Customs Tariff Act 1995*. This applies to complete towers, unassembled or assembled and applies to a basic tower that includes doors, ladders, landings and embed or tower foundation.

Steel tower sections, including sections with doors etc, are classified to 7308.90.00-49, assembled or disassembled, providing there aren't enough in a shipment to be judged to be a complete tower.

Combinations of towers and tower sections may vary on a case by case basis for assessment of tariff classification. Classification may vary when there is more of one thing than another, for example a tower section and lift or a tower section with lift, electrical junction boxes and other equipment.

An assembled complete wind powered generator is a composite machine consisting of two or more machines fitted together to form a whole; wind engine, generator, gearbox, yaw controls etc. fitted in a steel tower and nacelle. This would be classified to subheading 8502.31.10-31.

There are no tariff concession orders (TCOs) for towers under 7308. There are some TCOs under 8502 for wind turbine equipment, but none that specifically includes towers.

A customs duty rate of 4% applies to wind towers imported from China and duty rate of 5% for imports from Korea under tariff headings 7308.

3.4 Like goods

The applicants state that they manufacture wind towers matching the purchaser's specifications on a project-by-project basis and have characteristics like to the imported goods as follows.

Physical likeness

Although wind towers are built to each OEM particular specifications, both imported wind towers and those produced in Australia share basic physical characteristics – all are tubular steel towers with components such as doors, ladders, flooring, cables and wiring, and lights typically attached to the inner diameter of the welded steel plates.

Wind towers vary in size and are built to a number of specifications, such as steel, welding, coating, and quality inspection standards that carry over from one OEM to the next. Therefore certain OEMs may have certain specifications that differ from the standard specifications, but the standards are general to the global wind tower industry and have been adopted by most manufacturers.

Although every OEM has particular specifications it requires both overseas and Australian manufacturers to meet those standards for a particular wind project's wind towers.

Commercial likeness

Australian industry wind towers compete directly with imported wind towers in the Australian market. All wind towers are sold directly to the OEM, which incorporates them into wind turbines.

Functional likeness

Both the locally produced and imported wind towers have comparable or identical end-uses. All wind towers are used exclusively as part of wind turbines for supporting and elevating the nacelle and blades for the generation of electricity.

Production likeness

Locally produced and imported wind towers are manufactured in a similar manner and via similar production processes. All wind towers are produced by similar production methods utilising carbon steel welded into sections, before transportation to the wind project site for final assembly into wind towers.

3.5 Australian industry

As noted above subsections 269T(2) and 269T(3) specify that for goods to be regarded as being produced in Australia, they must be wholly or partly manufactured in Australia. In order for the goods to be considered as partly manufactured in Australia, at least one substantial process in the manufacture of the goods must be carried out in Australia.

The Commission has identified the Australian industry as comprising Keppel Prince, Haywards, E&A Contractors and RPG Aus Administration Pty Ltd, (RPG).

On 4 February 2013, the RPG Wind Tower business, RPG Aus. Pty Ltd (ACN 119 261 344) and its controlled entities were wound up. Available information shows that the key personnel and assets of RPG used to manufacture wind towers were purchased by E&A Contractors in November 2012.

The Commission visited and verified information from Keppel Prince and Haywards and requested summary production information and sales data from E&A Contractors.

3.5.1 Manufactured in Australia

A description of the manufacturing process was provided in the application and evidenced as part of the industry verification visit to Keppel Prince.

At the verification meeting with Keppel Prince, the Commission conducted an inspection of the production facilities: the wind towers being produced were in the final stages for the production of the towers, painting, fitting of internals and quality inspections.

The main building contains the plate rolling, welding, blasting and painting facilities. Keppel Prince has two plate rolling machines where the processed steel is rolled into required cylindrical size. The blasting room where fine metal particles are used to blast clean the tower section prior to painting. The paint room is where each tower section is painted and subject to quality control for the painting. The Commission observed the inspection of a recently painted tower section being subject to quality control inspection for the paint.

As requested by the Commission, Keppel Prince showed a complete tower section fitted out with the internals, that included ladders, electrical fittings and platforms. Isoloaders which are used to move tower sections around the facility were also pointed out.

The applicants identified the fabrication, consolidation and welding of the steel wind tower sections and the fit-out of all internal electrical and mechanical components as a substantial process of manufacture in Australia.

3.6 Submissions in response to SEF 221

The goods - Embeds

Win&P has made a number of submissions outlining its view that embeds should not be included as part of the goods. Win&P submitted that embeds and towers are two separate products and not one defined product. It argued that the reference to embeds in the description of the goods subject of the application is only intended to make clear that wind towers including an embed do not fall outside the scope of the goods.

Win&P also argued that the embeds could not be defined as a wind tower section as they typically consist of one steel plate, whereas the description of the goods refers to sections being of multiple steel plates.

Win&P further submitted that even if the embeds are to be interpreted as being part of the goods, then it did exports wind towers including embeds as it had entered into separate contracts for the sale and supply of wind towers and embeds.

Win&P considered that embeds:

- can be and are separately sourced (to towers);
- commercial considerations such as installation, topography, design, timing etc, are different to those for towers; and
- have separate and distinct markets and profit considerations to towers.

The GOK submitted that embeds should be excluded from the investigation as they were separately priced, shipped and subject to separate purchase orders. Embeds could not satisfy the description of the goods taking into account embeds were made with only one steel plate, the height definition for wind towers and the exclusions stated in the description.

Senvion submitted that embeds do not constitute an element of a wind tower. Embeds provide a connection from the concrete foundation to the tower and are usually priced and purchased separately. Embeds are not required in many of the new generation of wind towers.

The Australian industry submitted that embeds where required for a project is a fabricated steel section which is categorically aligned with wind tower sections and cannot be segregated as a separate product. Both embeds and tower section are produced in similar manners using similar materials and procedures.

3.7 The Commission's assessment

The goods – Embeds

The Commission does not agree with Win&P's interpretation of the goods description. It is clear based on the information in the application, the consideration report and the initiation notices that the goods subject of the application are wind towers and 'sections thereof'. The goods description also explains that embeds are a 'tower foundation section'.

The Commission also disagrees with the argument that embeds do not meet the definition of a section. The definition of a section referred to in Win&P's submission clearly relates to the wind tower sections only. The description of the goods makes clear that the embed is considered to be a tower foundation section and therefore there is little relevance in the wind tower section definition to be applied to the embed foundation sections.

In response to Win&P's view that it had not exported wind towers, including embeds, the Commission accepts that embeds can be and are separately sourced to towers and can be and are exported separately. The Commission has however observed that it is typical to have embeds considered as part of the quotations and pricing for a wind tower which includes an embed.

The Commission notes that there were sales of towers that do not require an embed in the Australian and exporter market. The Commission also notes that embeds may be contracted and sold separate to sales of towers to different parties at different times.

The examined export tenders that took place during the investigation period included towers with embeds and towers and embeds were exported for tenders. The internal documents of the exporters show consideration of the towers with embeds. The different export dates, purchase orders and invoicing do not detract from this.

The domestic contracts examined were for towers with embeds and show that both towers with embeds were considered in the one contract. The separate sales and invoicing of towers and embeds does not detract from the consideration of towers and embeds as part of the one contract.

The Commission considers that where towers are contracted and sold with embeds they can be considered as one product for the investigation as could towers where they were contracted and sold without embeds.

Like goods

The Commission has examined information gathered from the Australian industry, exporters in China and Korea and importers of the goods from China and Korea and considers that the Australian industry produces like goods to the goods the subject of the application.

Based on the verified information the Commission is satisfied that the applicant has demonstrated that:

- the primary physical characteristics of imported and locally produced goods are similar;
- the imported and locally produced goods are commercially alike as they are sold to common end users;
- the imported and locally produced goods are functionally alike as they have a similar range of end-uses;
- the imported and locally produced goods are manufactured in a similar manner; and
- the applicants conduct one or more substantial process in the production of wind towers in Australia.

No interested party has suggested to the Commission that wind towers produced by the Australian industry and those produced by the overseas manufacturers from the nominated countries are not like goods.

The Commission is satisfied based on the available that there is an Australian industry producing like goods to the goods the subject of the application.

4 AUSTRALIAN MARKET

4.1 Findings

The Australian market for wind towers is supplied by the Australian industry and imports from a number of countries including China and Korea.

4.2 Market structure

Wind towers manufactured in Australia and imported wind towers are provided for the purpose of structural support to the wind tower nacelle and blades in order for the turbine to reach suitable wind zone heights. The complete wind generating unit transports collected energy up and down the tower to the connected transmission grid and allowing personnel access to the turbine for maintenance purposes.

The Australian industry comprises Keppel Price, Haywards and E&A Contractors. RPG was an industry member that supplied wind towers before going into liquidation in February 2013. E&A Contractors is a new industry member that commenced manufacturing in 2013.

Imports from China, Korea, Vietnam and Indonesia have been supplied to the market over the injury analysis period. During the investigation period the imports were sourced from China, Korea and one other country.

The wind tower market can be separated into two wind farm segments according to scale:

1. Large scale commercial wind farms generating over 30MW of renewable energy; and
2. Community wind farms which are largely owned by local community members and are predominantly under 30MW with the number of wind towers less than 10.

All of the wind towers tendered during the investigation period were for large scale commercial wind farms.

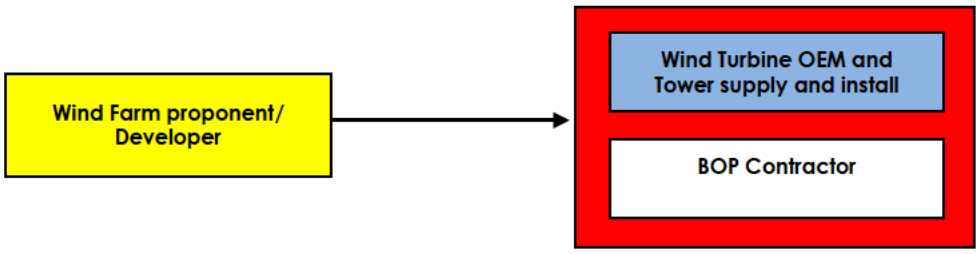
The supply chain for wind towers has traditionally been controlled by the wind turbine OEMs whose clients are the wind farm proponents/developer.

An alternate supply chain arrangement sometimes occurs whereby the wind tower supply component of the construction contract rests with the EPC.

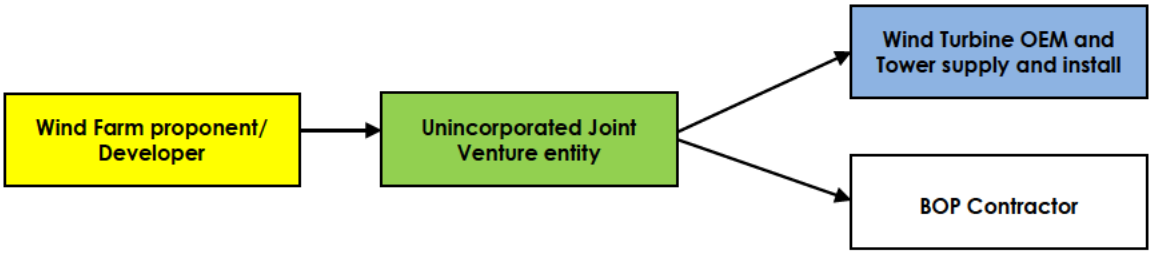
Three common contracting methods are:

1. Separate contracts for wind tower and turbine supply and installation, and Balance of Plant (BOP).

2. EPC single contracting structure with one entity.

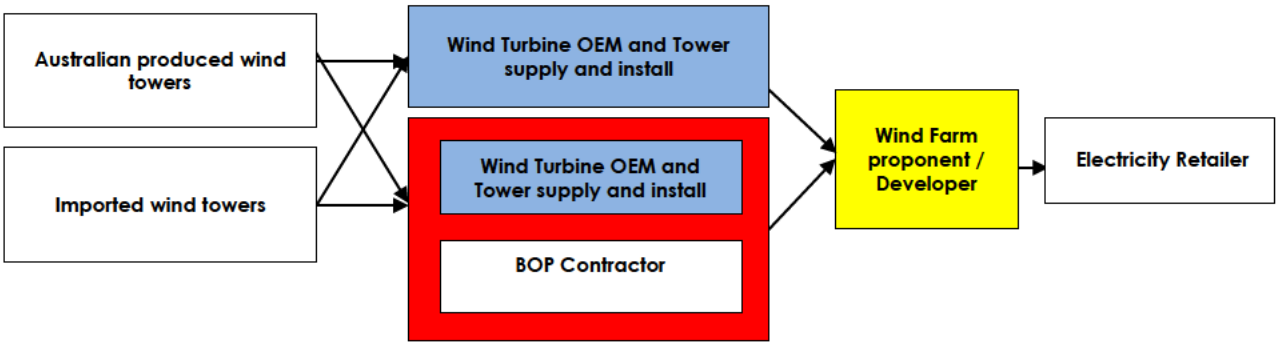


3. Unincorporated joint venture whereby a wind farm developer enters into a single contract with a consortium structure.



Wind tower channel to the market

Depending on the contract model used, both Australian and overseas wind tower manufacturers supply wind towers directly to either the OEM turbine producer or the EPC firm.



There are six main wind unit suppliers for wind farms in the Australian market, these are:

- GE;
- Goldwind;
- Senvion;
- Siemens;
- Acciona Energy Oceania Pty Ltd; and
- Vestas Wind Systems A/S (Vestas).

Senvion, Goldwind, Vestas and Siemens sourced the wind towers that were sold to the market during the investigation period.

The Australian industry in its application submitted that the total value of a wind tower constitutes approximately 8% of a fully constructed wind turbine[6].

[6] Based on an average wind tower value of $500k and an average installed wind turbine value of $6m.

4.2.1 Demand

The market for wind towers in Australia commenced in 2000. Since then the demand for wind towers has fluctuated from 100 to 200 towers per year coinciding with changes in Government policy and legislation. The Australian industry claims that the Australian market for wind towers is expected to double during the next two to three years as renewable energy policy heads towards achieving a 20% renewable energy mix by 2020. In order to meet this target the Australian industry estimate that approximately 400 wind towers per year would be required.

The broad driver of wind farm installations generally has been the growing international trend of nations increasing in-country supply of renewable energy sources. The primary driver of renewable energy demand has been Commonwealth Government legislation found in the *Renewable Energy (Electricity) Act 2000 (Cth)*, which requires electricity retailers to source an increasing proportion of their electricity from accredited renewable sources, via the Renewable Energy Target (RET).

4.2.2 Substitutes

The applicants stated that there are no commercially significant market substitutes for wind towers in the Australian market with possible substitutes for wind towers being cylindrical concrete wind towers and lattice steel towers. The applicants further stated that given the Australian market's needs and preferences, neither of the two possible substitutes is considered an option.

Titan submitted that concrete towers can be used as substitutes for wind turbines, whilst another interested party also submitted that concrete towers and steel lattice towers were being considered as alternatives in the Australian market.

4.2.3 Pricing

Wind towers are sold into the Australian market via a tender process for each project. Project managers are invited to tender for the wind farm project. The project managers will call for requests for quotations from companies to supply materials including, wind towers, turbines and nacelles based on the wind units that the project managers propose for the wind farms.

The project managers issue wind tower supply tenders with pre-qualified tower manufacturers, both locally and overseas. Pricing on a wind tower depends on a number of factors in that the wind tower units may vary in specifications including height, the internals and embeds and the free issue materials. As such wind tower suppliers can be providing different prices to the project managers depending on the tower specifications. Local currency is used for wind tower pricing. Free-issue material components may include any combination of the following inputs supplied by the OEM to be combined with the production components of the wind tower manufacturer:

- Steel plate;
- Flanges;
- Flange bolts;
- Paint;
- Mechanical internal components;
- Main electrical cables and allied components; and
- Lifts.

The successful project manager will contact the wind tower suppliers to provide a firm price for the project. Negotiations over price and clarification of specifications and terms take place over the next two to three months with a firm fixed price contract covering the supply of wind towers for the project. Changes can also occur during this process in areas such as steel, flanges, internals and tower design.

The Australian industry advised that wind towers are generally delivered to the site four to six months after the signing of the contract at a rate of two to four towers per week depending on the construction schedule.

The Australian industry also advised that the time from the first quotation to the successful project manager to the supply of the first towers to the project site may take around nine months. The Australian industry also advised that manufacturing and delivery of the towers for large projects may occur over a period of two years.

4.3 Market size

Titan expressed concern with the applicant's estimates of imports and market size over the injury period. Another party submitted that the unevenness and infrequency of wind farm tenders makes it difficult to analyse market share and trends.

The Commission considers that the date that contracts were awarded should be regarded as the effective date of sale as it reflects the date that the buyer and seller agree to the terms of sale.

The Commission notes that there will be a time lag between the awarding of the contract and the physical supply of towers, whether the towers are imported or supplied by the Australian industry.

The Commission estimates that in calendar year 2012, the size of the Australian market for wind towers (based on the date of contracts) was 240 towers. In the first half of 2013 the market comprised one project of 51 towers.

The contracts awarded in the investigation period that comprise the market for the investigation period are set out below.

There were four projects totalling 240 towers that were tendered during 2012:

- Snowtown II, 90 wind towers;
- Gullen Range, 73 wind towers;
- Mortons Lane, 13 wind towers; and
- Mt Mercer, 64 wind towers.

The one project that was tendered in the first half of 2013 was the Taralga project for 51 wind towers.

Figure 1 depicts the Commission's estimate of the Australian market based on the date of contract for the wind towers using information provided in the application, gathered by the Commission and verified with industry, importers and exporters.

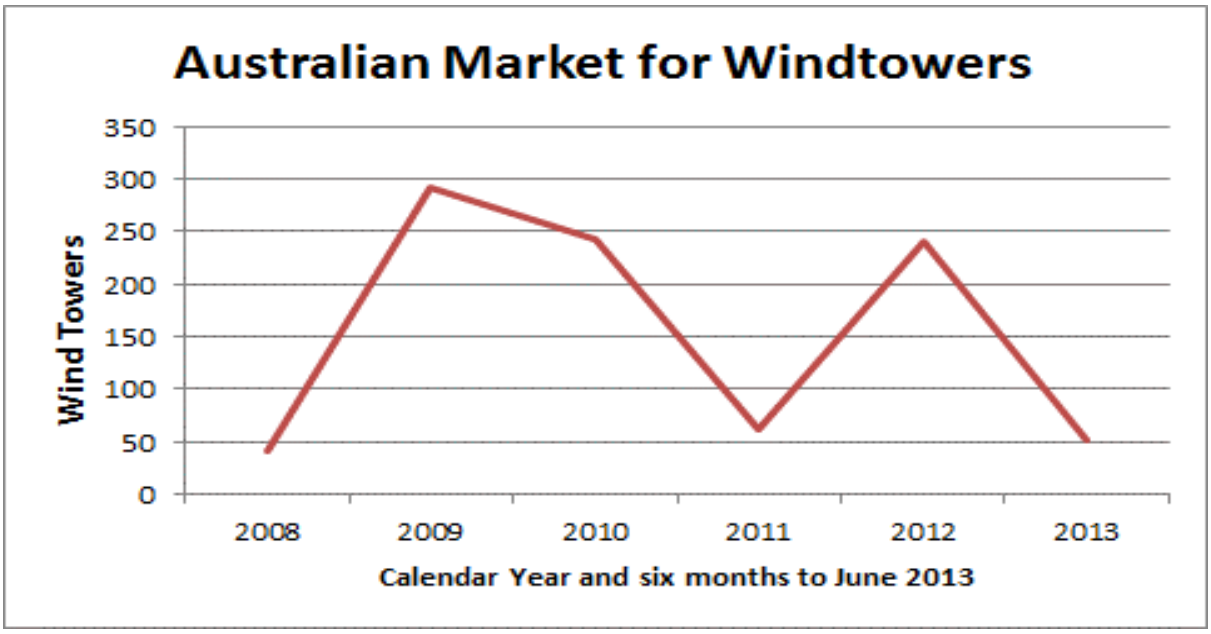


Figure 1 – Australian Market Size

4.4 Importers, end users

The Commission identified that there were three importers of wind towers during the investigation period. These importers were:

- Goldwind – imported towers from China for Gullen Range;
- Senvion – imported towers from Korea for Mt Mercer; and
- Siemens – imported towers from a country other than China or Korea for Snowtown II.

The Commission visited Goldwind and verified information relating to the sourcing and importation of wind towers. The Commission requested information from Senvion in relation to its sourcing and importation of wind towers.

Visit reports for the above importers can be found on the electronic public record available on the Commission website at http://www.adcommission.gov.au/.

The Commission requested information from Siemens in regards to the origin of its imports. A one page summary confirming that the imports were not from China or Korea was placed on the public record.

All of the above parties imported towers for their own use as wind unit suppliers.

4.5 Submissions in response to SEF 221

Goldwind submitted that the Commission's estimates of the size of the Australian market was based on the date contracts were awarded and therefore did not accurately represent annual production and imports. It also submitted that the half year figure for 2013 should be annualised.

The Australian industry submitted that the date contracts were awarded is appropriate for assessing injury as this is when injury is irrevocably suffered through loss of the contract

resulting in volume injury or awarding of the contract at a lesser value resulting in value and profit injury.

4.6 The Commission's assessment

In Consideration Report 221 the Commission noted that the applicants have used the date the contract was awarded for the supply of the wind towers as the effective date of sale in their estimate of the market. The applicants advised that the date of sale used was obtained from contracts they had won, the date they were advised on contracts they had lost and an estimate based on the commission date for contracts they had not competed in.

There will be a difference in market size estimates based on recognition of sales revenue, date of import and date of contract. This becomes more evident where a contract for a large project involves sales for that project occurring over several years.

Import data does not generally distinguish between wind towers and wind turbines, making it difficult to reasonably identify the goods.

The Commission reviewed information available from the internet for wind towers in Australia. Aggregated data on wind farm projects is in the form of capacity in electricity generated and not the number of wind towers. Most wind farms have a web site that provides further information including the number of towers operating and proposed.

The Commission compared this information to that provided by the applicants and considers that in the absence of detailed import information, information provided by the applicants provides a reasonable estimate of imports and the Australian market.

The Commission did not find and was not given any information showing concrete or steel lattice towers being considered for wind tower projects. On this basis the Commission finds that concrete or steel lattice towers are not present in and do not form part of the Australian market for wind towers.

Details of the Australian market are at **Confidential Appendix 1**.

5 Market situation and raw material costs in China

5.1 Finding

The Commission considers that domestic sales of wind towers are not relevant for the purposes of determining normal values under s.269TAC(1). Accordingly, the consideration of whether a market situation exists that would render domestic sales unsuitable is redundant.

The Commission identified significant differences between the exported goods and like goods sold domestically in China, and that therefore reasonable adjustments could not be undertaken to ensure proper comparison. This reflects that wind towers are capital equipment that are manufactured and deigned for a specific project.

The Commission considers that domestic sales of wind towers could not be used to establish normal values, and therefore, the consideration of whether a market situation existed is redundant. The Commission does not make a market situation finding

In addition the Commission finds the conditions under Regulation 180 of the *Customs Regulations 1926* have not been met as the raw material costs for plate steel and flanges do not reasonably reflect competitive market costs associated with the production or manufacture of like goods. The Commission has therefore uplifted the prices of steel plate and flanges used in the constructed normal value for China using available information from previous and present investigations into steel and plate steel.

5.2 Background

China is treated as a market economy country under Australia's anti-dumping legislation. Australia's legislation is in accordance with the WTO Anti-Dumping Agreement and provides for the rejection of domestic selling prices in market economy countries where it can be established that the situation in the domestic market of the exporting country renders domestic selling prices unsuitable for normal value purposes.

Generally, the Commission calculates the normal value of the goods as the price for like goods sold for home consumption in the country of export (s.269TAC(1))[7].

One of the exceptions to using domestic selling prices for determining normal values is set out in s.269TAC(2)(a)(ii), which broadly provides that the domestic selling prices are not an appropriate basis for normal value if the Minister is satisfied that:

> *".the situation in the market of the country of export is such that sales in that market are not suitable for use in determining a price under s.269TAC subsection (1)"* (i.e. a 'particular market situation' exists).

One of these situations may be where the domestic selling prices in the country of export have been materially affected by government influence rendering those prices unsuitable for use in establishing normal values.

The existence of a particular market situation potentially affects the approach that the Commission takes to calculating normal values under the Act in undertaking an assessment of whether goods have been exported to Australia at dumped prices.

---

[7] This price is subject to adjustments under s269TAC(8) to ensure any differences do not affect the comparison with the export price.

5.2.1 Application

The applicants stated that selling prices within the domestic Chinese wind towers market are artificially low due to government influence on raw material prices, in particular, plate product produced from hot rolled coil, coking coal and/or coke and scrap metal. As plate steel is the major raw material input into the production of wind towers, and contributes to at least 50% of the cost to make the goods, the applicants considered that domestic selling prices for wind towers are unsuitable for establishing normal values (under s.269TAC(1)) for the products exported from China, as a "*particular market situation*" exists in these markets.

To support the market situation claims, the applicants referred to International Trade Remedies Report No.177 (REP 177) for hollow structural sections (HSS)[8] exported from China and other countries. In REP 177, it was determined that a market situation existed for HSS sold domestically in China and that normal values for HSS exported from China to Australia could not be determined under s. 269TAC(1). The applicants noted that the then Minister accepted the recommendations that the selling prices for HSS sold in China were not suitable for the purpose of determining normal values on the basis of a "particular market situation" for HSS sold in China.

The applicants also referred to Consideration Report 198 (CON 198), the consideration of the application of BlueScope Steel Limited (BlueScope) for dumping duties for hot rolled plate steel exported from China, Indonesia, Japan, Korea and Taiwan. In its application BlueScope claimed that plate steel prices in China are significantly lower than global plate steel prices. BlueScope presented evidence in support of that contention, which was accepted as providing reasonable grounds, at the application consideration stage, for claiming that Chinese domestic selling prices for plate steel are not suitable for determining normal values under subsection 269TAC(1).

The applicants noted the conclusion in REP 177:

> *"that that the GOC [Government of China] has exerted numerous influences on the Chinese iron and steel industry, which are likely to have materially distorted competitive conditions within that industry and affected the supply of HSS, HRC, narrow strip and upstream products and materials"[9].*

The applicants submitted that wind towers are also a product affected by the GOC distortions within the Chinese steel industry as they are a downstream product produced from steel plate, as an upstream product.

The applicants further submitted that the GOC has heavily influenced the Chinese domestic market for wind towers through programs identified in REP 177.

Structural adjustment

- The National Steel Policy;
- National and regional Five-Year Plans and guidelines; and
- BluePrint for Steel Industry Adjustment and Revitalisation.

[8] The Minister accepted findings and recommendations as contained in REP 177. The Minister affirmed the finding that there was a market situation in China as recommended in REP 203.

[9] REP 177, p166.

Guiding industry mergers and restructuring

- Concentration of Chinese iron and steel producers through mergers and acquisitions that are aimed at achieving the GOC's objective of the top 10 producers accounting for 70% of production by 2010.

Export measures on coke

- Measures on coke "that appear to be consistent with the NSP (National Steel Policy) to restrict coke;
- Coke represents a significant proportion (over 20 per cent) of the cost of cast steel (being first used to smelt iron, and this iron is then used to produce steel);
- Steel represents the major cost of Hot Rolled Coil (HRC);
- Verified information on Chinese exporters shows that HRC and/or narrow strip represents in excess of 90 per cent of the total cost to make HSS; and
- The cost of coke represented a significant proportion of the cost of the HRC or narrow strip, and therefore the HSS.

Subsidisation

- The provision of steel raw material products in the production of HSS at less than adequate remuneration identified as Program 1.

The applicants submitted that the raw materials that benefit from less than adequate remuneration are also inputs into the production of wind towers.

The applicants concluded that as plate steel is the major raw material input into the production of wind towers, and contributes at least 50% to the cost to make the goods, then domestic selling prices for wind towers in China are artificially low due to government influence on raw material prices (i.e. plate product produced from hot rolled coil, coking coal and/or coke and scrap steel).

The applicants considered that selling prices for wind towers were therefore unsuitable for establishing normal values under subsection 269TAC(1).

5.2.2 Relevant investigations on steel

The Commission was satisfied at the time of initiation of the investigation, that the application contained sufficient information and evidence to support the claims that the market situation findings in previous and current investigations into steel are relevant and applicable to the Chinese plate steel market which is the major raw material input into the production of wind towers.

The Commission noted that the issue of a market situation in China was considered in REP 177 in regards to HSS exported from China during the investigation period of July 2010 to June 2011. In REP177 it was established that:

- the GOC has exerted numerous influences on the Chinese iron and steel industry, which are likely to have materially distorted competitive conditions within that industry and affected the supply of HSS, HRC, narrow strip, and upstream products and materials;
- the GOC influences in the Chinese iron and steel industry have created a 'market situation' in the domestic HSS market, such that sales of HSS in that market are not suitable for determining normal value under s.269TAC(1).

In REP 203 the reinvestigation affirmed the finding of the original investigation (REP 177) that because of the situation in the iron and steel market, which includes HSS producers, domestic sales in that market are not suitable for use in determining normal values under s.269TAC(1) of the Act.

The issue of a market situation in China was also considered in REP190 in regards to aluminium zinc coated steel and zinc coated (galvanised) steel. In REP190 it was found that the price of HRC and other major raw material in China was influenced by the GOC throughout the investigation period of July 2011 to June 2012.

Direct intervention by the GOC in the form of imposition of taxes, tariffs, export quotas and other indirect measures including the GOC's overarching macroeconomic policies and plans, such as the National Steel Policy, a Blueprint for Steel Industry Adjustment and Revitalisation Directory Catalogue and 12th Five Year Plan have impacted on the supply and distorted the cost of the raw materials coke, coking coal, iron ore and scrap metal, which in turn has distorted the price of HRC.

It was considered that the most influential factors were the: 40% export tax on coke and scrap metal and the 0% value added tax (VAT) rebates on HRC, coke, coking coal and iron ore.

The Commission was also considering the issue of a market situation in the then current investigation into hot rolled plate steel (plate steel, Investigation 198) exported from China at the time of the initiation of the wind tower investigation.

In SEF 198 the Commission found that the price of HRC and other major raw material in China was influenced by the GOC throughout the investigation period of January 2012 to December 2012. Direct intervention by the GOC in the form of imposition of taxes, tariffs, export quotas and other indirect measures including the GOC's overarching macroeconomic policies and plans, such as the National Steel Policy, a Blueprint for Steel Industry Adjustment and Revitalisation Directory Catalogue and 12th Five Year Plan have impacted on the supply and distorted the cost of the raw materials coke, coking coal, iron ore and scrap metal, which in turn has distorted the price of HRC.

The Commission noted that the GOC, in submissions to the plate steel investigation, stated that plate steel is used by a number of sectors and identified that domestic demand for steel was also driven by other consumers such as nuclear power plants, wind farms, hydro-power facilities, ports, ships, railways, transportation, mining machinery, medical equipment, construction machinery and housing.

The Minister considered REP 198 and accepted the Commission's recommendations and reasons for the recommendations contained in the report.

Notice of the Minister's decision was published in *The Australian* newspaper and the *Commonwealth of Australia Gazette* on 19 December 2013 and in ADN No. 2013/72.

In REP198 the Commission found in respect of plate steel that a market situation existed in the domestic market for plate steel in China during the investigation period such that selling prices in that market are not suitable for normal value purposes.

The Commission's assessment of a market situation was contained in Appendix 1 to REP198. In that appendix the Commission concluded that:

> *The Commission has determined that the GOC has exerted numerous influences on the Chinese iron and steel industry, which have substantially distorted competitive market conditions in the iron and steel industry in China.*

In the current investigation, based on available information, the Commission determined that various GOC influences identified in INV 177 and again in INV 190 continued to apply in the Chinese iron and steel industry. These were in the form of broad, overarching GOC macroeconomic policies and plans that outline aims and objectives for the Chinese iron and steel industry and more specifically the 'implementing measures' that go towards actively executing the aims and objectives of these policies and plans.

The impact of the GOC's numerous broad and extensive overarching macroeconomic policies and plans, outlining the aims and objectives for the Chinese iron and steel industry, have not been insignificant. The various countervailable subsidies provided by the GOC have also influenced the costs of production of plate steel in China. The various taxes, tariffs, export and import quotas have influenced the price of raw materials used in production of plate steel which has led to a distortion in the selling prices of the plate steel itself.

The Commission's assessment and analysis of the available information indicates that prices of plate steel in the Chinese market are not substantially the same as they would have been without the influences by the GOC. The Commission considers that GOC influences in the Chinese iron and steel industry have created a 'particular market situation' in the domestic plate steel markets such that sales of plate steel in China are not suitable for determining normal value under s.269TAC(1) of the Act.

5.3 Submissions to market situation

Goldwind submitted that according to WTO case law a "market situation" has to be in relation to the products that are the subject of the investigation themselves (wind towers) – not the price of an input (steel) into the production of the relevant goods.

Titan submitted that there is no particular market situation from a factual and legal point of view and the Commission should not be constructing normal values for China on the basis of an alleged particular market situation. Titan referred to World Trade Organisation Panel and Appellate Body findings to argue that it was not enough to claim a market situation existed merely because plate steel was used in the manufacture of wind towers. Titan submitted that it has to be demonstrated that domestic sales in China of wind towers are affected by a particular market situation.

Titan submitted that any constructed normal value should be computed on the basis of costs in China and any difference in prices for raw materials on the domestic and export market was irrelevant.

Another party submitted that the GOC does not intervene in the domestic market for wind towers. The three significant manufacturers TSP, Titan and CS Wind Corporation sell wind towers on both the domestic and export markets.

The party submitted that:

- it has not been demonstrated that domestic sales of wind towers have been affected by a market situation. Finding a particular market situation in respect of raw materials has been rejected as a legal basis, and it is not the relevant test to apply for recourse to a constructed normal value;

- costs for wind towers are lower due to lower manufacturing costs from lower labour costs and economies of scale. Likewise steel costs in China are less than Australia due to economies of scale in production and domestic steel prices in China are comparable with those in the United States of America (USA) and European Union (EU);
- Regulations 180(2) and 181(2) establish that costs of production have to be determined on the basis of the records of the exporter where such records are in accordance with generally accepted accounting principles in that country and they reasonably reflect competitive market costs. Although Regulation 180(2) refers to "competitive market costs" this interpretation must be in line with WTO law which simply refer to costs. Therefore costs used to establish the normal value should reflect the costs in the exporters' records.

5.4 The Commission's assessment – market situation

The Commission sent a questionnaire to the GOC seeking further information on the claims in the application of a particular market situation. The purpose of the questionnaire was stated as:

> *to provide the GOC the opportunity to provide any further evidence that might demonstrate that the factors found to exist in INV 198, INV 190a and 190b and INV 177 no longer exist or have effect, and that there could now not be said to be a market situation in relation to plate steel.*

The Commission also noted in the questionnaire that it recognised that in previous responses to the questionnaires, the GOC has provided detailed responses to questions and requests for documents. The Commission advised that it will assume that previous responses to INV 198 remain unaltered and were applicable during the investigation period (1 January 2012 to 30 June 2013) for wind towers.

The GOC was invited to identify whether there have there been any changes to GOC policies since INV 198 that support the view that the factors leading to the Commission's finding in INV 198 and final findings in INV 190a and 190b and INV 177 of a particular market situation in the Chinese steel industry as outlined in SEF 198, REP 190a and 190b and REP 177 no longer exist.

The Commission advised that if the GOC chose to respond to the questionnaire, the response was due by COB 5 December 2013.

The Commission had not received a response by 10 December 2013 and contacted the GOC noting that the GOC had not sought any extension of time from the Commission and asked whether the GOC would be responding to the questionnaire. The Commission had not received any response to the questionnaire from the GOC as at the date of the SEF. The Commission has also not received any response from the GOC to the SEF.

No information was provided by the GOC demonstrating that its policies and programs in the steel sector have been altered in such a way as to invalidate the previous finding of the existence of a market situation in the domestic market for plate steel. The Commission therefore considers that the distortion of domestic prices of plate steel found in INV 198 existed during the period of 1 January 2012 to 31 December 2012 and continued to exist in the period from 1 January 2013 to 30 June 2013.

Section 269TAC(1) of the Act sets out the general method used to determine normal values:

> *…the normal value of any goods exported to Australia is the price paid or payable for like goods sold in the ordinary course of trade for home consumption in the country of export in sales that are arms length transactions by the exporter or, if like goods are not so sold by the exporter, by other sellers of like goods.*

Section 269TAC(2)(a) sets out circumstances under which the Minister may decide that the normal value cannot be determined using s269TAC(1).

> *… where the minister:*
>
> *(a) is satisfied that:*
> *(i) because of the absence, or low volume, of sales of like goods in the market of the country of export that would be relevant for the purpose of determining a price under subsection (1); or*
> *(ii) because the situation in the market of the country of export is such that sales in that market are not suitable for use in determining a price under subsection (i);*
>
> *the normal value of goods exported to Australia cannot be ascertained under subsection (1); or …'*

The Commission notes that wind towers are unique capital equipment that are project driven and differ in their technical properties between projects. The Commission considers that the identified differences between the exported goods and like goods sold domestically are so complex and significant in terms of specifications and inclusions and exclusions that adjustments could not reasonably be undertaken to ensure proper comparison.

Therefore, the Commission finds that domestic sales of like goods in China and Korea are not relevant and suitable to compare to export sales. Accordingly, normal values cannot be established under s.269TAC(1) and must be determined under one of the alternative methods provided for in the Act.

Given the finding that normal values cannot be determined under s.269TAC(1), the Commission considers that the assessment of whether a market situation exists in the Chinese domestic market to be redundant. However, the Commission regards information gathered and assessed as part of the market situation claims to be directly relevant to the determination of costs for the purposes of constructing normal values under s.269TAC(2)(c).

5.5 Raw material costs

The Commission considers that the findings in REP198 are current and relevant to the determination of costs of production by TSP in the current investigation. The investigation period for the plate steel investigation was 1 January 2012 to 31 December 2012. This substantially overlaps with the investigation period of 1 January 2012 to 30 June 2013 for the wind tower investigation.

In determining the cost of production and the administrative, selling and general costs associated with the sale of those goods, the Parliamentary Secretary must have regard to factors provided for in Regulation 180. The regulation requires that if an exporter keeps records relating to like goods that are in accordance with generally accepted accounting

principles (GAAP) in the country of export, and reasonably reflect competitive market costs associated with the production or manufacture of like goods, the Parliamentary Secretary must work out the cost of production using information set out in the exporter's records.

In its examination of the exporter's records, the Commission found that TSP maintained records that complied with the GAAP of the country. In examining whether the second of the conditions was satisfied, the Commission considered the GOC's distorting effect on the production costs and selling prices of plate steel. The Commission finds that sufficient evidence exists to consider that the cost of plate steel and flanges reflected in the records of TSP do not reasonably reflect a competitive market cost.

Given that the conditions of Regulation 180(2) have not been fulfilled, the Commission is not required to use information relating to the cost of plate steel and flanges set out in the records of TSP. Therefore, for the purposes of constructing a normal value, the Commission considers it appropriate to determine the cost of production for wind towers sold domestically by replacing the cost of plate steel and flanges with a competitive market cost.

The Commission constructed a normal value with plate steel purchase costs adjusted using information from REP198 that the Commission considers reflects competitive market costs.

A competitive market cost for plate steel was established using verified domestic selling prices in China for plate steel from INV198. These prices were then compared to the unadjusted normal values established in INV198. The difference in these prices was then applied to the purchase cost of plate steel as reflected in TSP's records.

5.5.1 Submissions to the SEF

Goldwind submitted that the raw material and production process for flanges differs to the steel plate used to manufacture the tower sections and that any adjustment to the cost of flanges should be less than that applied to steel plate when constructing a normal value.

5.5.2 The Commission's assessment

The Commission had regard to the findings of previous dumping investigations into various steel products, where it was found that the GOC exerted sufficient influence on the Chinese iron and steel industry, such that competitive market conditions in the steel sector more generally were distorted in China.

The view presented by Goldwind is that flanges are manufactured using a different production process to plate steel. Available information supports this view as flanges are typically forged from a single slab of steel whilst plate steel may be manufactured from slab steel undergoing a number of widening, rolling levelling and trimming processes.

Though the manufacturing processes differ for flanges and plate steel, evidence shows that both products have the same raw material input, being slab steel.

The Commission notes the following information regarding the production process for the co-operating exporter Shandong Iron and Steel Company Limited, Jinan Company (JIGANG) of China in INV198.

> JIGANG is a fully integrated steel maker, producing coke, molten iron, steel, steel slab and plate steel.

JIGANG purchases coking coal from which it produces coke. Coke, along with iron ore and other raw materials is fed into a blast furnace to produce molten iron which is used in the production of steel slab from which the plate steel is produced.

Normal values for domestic sales by JIGANG were established in accordance with s.269TAC(2)(c) using JIGANG's weighted average cost to make and sell (CTMS) data (revised for costs not considered to reflect competitive market costs).

The revised costs for Jigang CTMS were related to the cost of coking coal to produce the slab. These revised costs then flowed through to the cost of producing plate steel.

As noted above unadjusted normal values for plate steel established in INV 198 were compared to verified domestic selling prices with the difference applied to the cost of plate steel purchased b TSP.

The Commission considers that it is reasonable to apply the same difference calculated for plate steel to the purchase cost of flanges given that both products may be manufactured from the same raw material.

The Commission finds that sufficient evidence exists to consider that the cost of flanges reflected in the records of TSP does not reasonably reflect a competitive market cost. The Commission considers that that the cost of the flanges should be uplifted using the same ratio amount that plate steel was up lifted by.

Calculations and details of the uplift are at **Confidential Appendix 2**.

6 DUMPING INVESTIGATION

6.1 Finding

Dumping margins for the investigation period were calculated by comparing weighted average export prices with the corresponding weighted average normal values. Dumping margins are summarised in the following table:

Country	Exporter	Dumping margin
China	TSP	15.0%
	All other exporters	15.6%
Korea	Win&P	17.2%
	All other exporters	18.8%

6.2 Introduction

Dumping occurs when a product from one country is exported to another country at a price less than its normal value. The export price and normal value of goods are determined under sections 269TAB and 269TAC respectively.

This chapter explains the results of investigations by the Commission into whether wind towers were exported from China and Korea at dumped prices during the investigation period.

6.3 Exporters

The Commission identified that there were two exporters of wind towers, one from China, TSP, and one from Korea, Win&P, during the investigation period.

The Commission received questionnaire responses from TSP and Win&P that were assessed by the Commission as being substantially complete. The Commission visited both exporters and verified information relating to costs, domestic sales and exports to Australia during the investigation period. A copy of the visit report was placed on the public record.

The verification visit reports for each of the exporters are available at the Commission's website http://www.adcommission.gov.au/ and provide additional detail to what is discussed below.

6.4 China

In the verification report for TSP normal values and dumping margins were calculated using data verified with the exporter and did not take account of any adjustments for competitive market costs in relation to plate steel.

6.4.1 Submissions in response to SEF 221

The Australian industry was concerned that not all costs of production had been captured using an allocation based on steel volumes.

The Commission has carefully reviewed information relating to TSP's allocation of costs based on steel volumes and is satisfied that the allocation was reasonable.

6.4.2 Export price

TSP exported wind towers to Australia via an unaffiliated party that was not considered to be the importer. Therefore, export prices are unable to be determined under s.269TAB(1)(a) or (1)(b).

The Commission recommends that export prices for sales of wind towers to Australia by TSP be determined under s. 269TAB(1)(c) having regard to all circumstances of the transaction and using the invoiced price between TSP and the third party.

Export prices were established at a free-alongside-ship (FAS) point.

A weighted average unit export price of wind towers over the investigation period was calculated comprising:

- a calculated unit price for the invoiced embeds; and
- a calculated unit price for the invoiced wind towers.

6.4.3 Normal values

Verification of TSP's information submitted in its questionnaire response showed that domestic sales and domestic CTMS calculations were reasonably complete, relevant and accurate. However the Commission considered that each wind tower is a unique product and that, because of the many variables and differences in technical specifications which would affect proper comparison, it is not meaningful to adjust domestic prices to make them comparable with export prices.

The Commission considered that, in line with s.269TAC(2)(a)(i), there is an absence of relevant sales of like goods on the domestic market in China for determining normal values under s.269TAC(1) of the Act. For the same reasons, export sales to third countries are not considered appropriate for establishing normal values under s.269TAC(2)(d).

Accordingly, the Commission recommends that normal values for TSP's exports be determined pursuant to s.269TAC(2)(c) using the cost of production of the exported goods, plus reasonable amounts for selling, general and administration costs and profit.

As outlined in the previous chapter of this report, the Commission did not consider it necessary to undertake an assessment of the market situation claims. The Commission has found that sufficient evidence exists to consider that plate steel prices and the cost of the flanges are distorted in the Chinese domestic market. It is reasonable to consider that this distortion has flowed through the purchase costs of wind tower producers in China.

Therefore, the Commission finds that sufficient evidence exists to consider that the cost of plate steel and the cost of the flanges reflected in the records of TSP do not reasonably reflect competitive market costs.

On this basis, a normal value was constructed, with plate steel and flange purchase costs adjusted using information from REP198 that the Commission considers reflects competitive market costs.

The competitive market cost was established using verified domestic selling prices in China for plate steel from INV198. These prices were then compared to the unadjusted

normal values established in INV198. The differences in these prices were then applied to the cost of steel plate and flanges for TSP.

The Commission has made further adjustments to the normal value following a review of the verification report. These adjustments related to the calculation of SG&A costs and the allocation of finance costs. Details of these changes were sent to TSP before the issuing of the SEF and advised that the dumping margin in the SEF may be revised following review of any submissions received from TSP of the changes.

The Commission did not receive an adequate response for its questions in regards to finance costs, the Commission considers that large amounts shown as negative items in the finance costs should be disregarded in view of the lack of information provided on those details.

The Commission has recalculated SG&A and profit disregarding the negative finance costs which has resulted in a change to the dumping margin.

A normal value ex-works has been constructed for the investigation period using:

- the verified cost to manufacture wind towers exported to Australia (adjusted for steel plate and flange costs);
- the selling, general and administrative costs incurred in the domestic sale of wind towers during the investigation period excluding inland transport; and
- the profit achieved by TSP on profitable domestic sales of wind towers manufactured by TSP, sold during the investigation period.

The Commission calculated a rate of profit under regulation 181A(2) using data relating to the production and sales of like goods by TSP in the ordinary course of trade.

Adjustments have been made to this normal value, in accordance with s. 269TAC(9) of the Act to ensure a fair comparison of normal value and export price.

Adjustments were made for:

- packaging expenses;
- export inland freight;
- credit terms; and
- export handling charges.

6.5 The Commission's assessment

A dumping margin for wind towers exported from China by TSP has been established in accordance with section 269TACB(2)(a), by comparing the weighted average of export prices over the whole of the investigation period with the weighted average of corresponding normal values over the whole of that period.

The Commission determined a product dumping margin of 15.0%.

The Commission calculated that the volume of goods exported to Australia by TSP that are dumped over the investigation period is greater than 3% of the total import volume of wind towers over the same period and is therefore not a negligible volume.

The Commission calculated a dumping margin for all other exporters from China using verified information from TSP less any favourable adjustments.

Export prices were established under s.269TAB(3) based on verified information from TSP.

Normal values were established under s.269TAC(6) based on information verified with TSP but exclusive of any favourable adjustments.

The all other rate margin calculated is 15.6%.

6.6 Korea

In the verification report of Win&P, normal values and dumping margins were calculated using data verified with the exporter. The recommendation of the visit team did not include an amount for profit in the constructed normal value as at that time of the visit an amount of profit to be added had not been identified.

Following review of the report and information submitted by Win&P, along with other relevant information, the following normal values and dumping margins in the SEF took account of an amount for profit in the normal values.

6.6.1 Submissions to the SEF

Win&P provided submissions shortly before the SEF, copies of which were placed on the public record. The Commission did not address the submissions in the SEF but has addressed in the submissions in this final report.

Date of sale

Win&P submitted that the material terms of sale were established at the date of contract and this date should be used for converting the currency of exports into Korean Won. Win&P argued that the contract is a strict legal agreement which sets out all of the material terms of the sale between the parties and that the “Change to the Purchase Order” is not a “change” in any relevant sense and not a change to the material terms of sale.

The GOK also addressed the date used for currency conversion arguing there was a lack of consistency in using the contract date material injury purposes but not for currency conversion. The GOK submitted that the contract date should be used as date of conversion.

Senvion submitted that the material terms of sale were established at the date of contract and this date is when rate of currency exchange should be used. Senvion did not understand how the Commission could assert a sale was lost for assessing injury on the date the contract was awarded but the material terms of sale were not established until the delivery had taken place for determining export prices.

Section 269TAF(1) provides that where a comparison of export prices and normal values requires a conversion of currencies, that conversion, subject to a forward rate of exchange being used, is to be made using the rate of exchange on the date of the transaction or agreement that, in the opinion of the Minister, best established the material terms of the sales of the exported goods.

The Commission is satisfied that Win&P did not enter into a forward exchange contract for its wind tower exports during the investigation period. As a result, the date that best establishes the material terms of the sale is the appropriate date for the conversion of currencies.

The Commission reviewed the information regarding the date used for currency conversion and accepts that for certain types of tender and capital equipment sales the

date of contract may be the more appropriate and preferred date. However in this instance the Commission does not consider that the contract/purchase order date is suitable.

Win&P argues that any subsequent changes to the purchase order were not changes that affected the material terms of sale. The issue then is what terms can be considered to be material to a sale. The Commission notes that this issue was previously considered and addressed by the Trade Measures Review Officer (TMRO) in his review of a decision to publish a dumping duty notice in respect of hollow structural sections[10].

In that report, the TMRO found that:

> Price is a material term, but other terms are also material, for example, the type and quantity of the goods subject to the order. The time and terms of delivery may also be considered to be material. It seems reasonable to assume that these terms are fixed at the time the offer is accepted. Although price may not be fixed, it seems very likely that the mechanism by which the price is to be determined will be set out in the contract.

In reviewing documents relevant to the sale of wind towers by Win&P, the Commission compared the various terms established in the amended purchase orders, the subsequent commercial invoices and the actual shipping documents. The evidence shows that:

- The number of sections to be shipped as per the purchase orders did not reconcile the number of sections identified on the commercial invoice;
- The number of sections identified on the commercial invoices as being shipped did not reflect the number of sections that were actually shipped;
- payment for was received by Win&P from Senvion which accounted for the number of sections identified on the commercial invoice and not the number of sections actually shipped;
- the scheduled delivery dates identified on the amended purchase orders differed to the actual delivery dates, and
- a number of sections have not yet been shipped to Australia in line with the agreed delivery schedule even though payment has been received for those goods.
-

For the reasons outlined above, the Commission does not consider that the purchase orders are a suitable date to use as the date that best establishes the material terms of sale.

The Commission considers that the date that best establishes the material terms of sale is the date of sales revenue recognition in Win&P accounts. This is the date that WIN&P recognised the amount as a sale as stated in the audited accounts.

SG&A allocations

Win&P submitted that SG&A had been incorrectly calculated by the Commission using indirect expenses which were not company common expenses, along with research and development expenses which should not be allocated to the goods.

[10] http://www.adreviewpanel.gov.au/site/2012_7.asp - 12 Sept 2012. Para. 177

The Australian industry submitted that given the difference of views between Win&P and the Commission over the financial data, the exporter cost information should be disregarded and the best available information, being the cost construction data in the application should be used.

The Commission has reviewed the allocation of SG&A expenses following the submissions and discussions with Win&P. During the verification visit, Win&P was requested to provide all relevant worksheets and associated calculations to demonstrate its SG&A figures. The exporter provided two untranslated worksheets which contained broken links to other worksheets.

Following completion of the verification visit, the Commission calculated Win&P's SG&A expenses for wind towers using the spread sheets provided by Win&P and based on its understanding of those expenses. The calculation of SG&A expenses was based on actual sales revenue.

At a meeting with Win&P on 26 February 2014, Win&P argued that the SG&A calculations incorrectly included common expenses of another department in the company common expenses. Win&P displayed a workbook that showed the original two worksheets plus a number of other associated worksheets.

It was explained to Win&P that the worksheets provided were not translated and that SG&A expenses were calculated on an understanding of the information presented at the visit. It was also pointed out to Win&P that the workbook contained additional worksheets that were not included in those given to the Commission and that these had been asked for at the visit.

The exporter questionnaire sent to Win&P on 17 September 2013 states on page 7:

- Identify source documents and advise where they are kept. During on-site verification you should be prepared to substantiate all the information you have submitted. Every part of the response should be traceable to company documents that are used in the ordinary course of business.
- We recommend that you retain all work sheets used in answering the questionnaire, in particular those linking the information supplied with management and accounting records. This will help us to verify the information.

The Commission considers that the worksheets help give an understanding of the costs and reasonableness of allocations and for tracing back to source documents.

Win&P undertook to email the workbook to the Commission with all associated worksheets. Two single work sheets were emailed with translations for the separate department headings however the requested associated worksheets were not included in the workbook.

The Commission considers that the associated worksheets were essential to understanding Win&P's costs and allocations. Therefore the Commission has relied on its understanding of the original worksheets by Win&P at the verification visit and allocated SG&A using actual revenue.

In calculating and assessing SG&A costs it is the Commission's preferred method to use costs as a percentage of sales revenue unless the exporter can demonstrate a different allocation should apply.

The SG&A costs as presented by Win&P comprised direct costs and company common costs. The company common costs were allocated to wind towers based on the company

business plan and not actual revenue. Win&P also provided a company structure showing the different divisions within the company. The Commission considers that costs from those divisions would be shared across the wind tower and non-wind tower businesses.

On the issue of Research and Development (R&D) expenditure, Win&P referred to documentation in a provided business plan as evidence that R&D was a division specific to non-wind tower products.

The documentation referred to projects underway at the time and to be continued into 2013 for both wind towers and non-wind tower products. The Commission notes that documents relevant to wind towers state that the purchaser and provider undertake to work together to develop lower cost solutions. The Commission also notes a wind tower project that was being developed in conjunction with the purchaser. The Commission considers that these documents evidence that research and development work is applicable in relation to wind towers.

The Commission considers that the documentation provided does not support the contention by Win&P that R&D is division specific to the on-wind tower segment only and that R&D expenses should be allocated based on revenue share.

The Commission calculated SG&A costs based on its understanding of SG&A expenses and the allocation as presented at the visit. The calculation showed that wind towers were allocated what the Commission considers a reasonable share of SG&A costs based on the information available.

The Commission notes that the SG&A allocation method preferred by Win&P results in SG&A expenses allocated to the non-wind tower businesses at over double the allocation to that for wind towers.

Win&P did not provide evidence to justify why the allocation was weighted more heavily to one sector of the company than the other. As a result, the Commission considers that the allocation of SG&A expenses as presented by Win&P is not reasonable.

The Commission considers that SG&A expenses based on an allocation of actual revenue share and the Commission's understanding of such expenses as presented at the verification visit reasonably reflects the SG&A expenses for wind towers.

Foreign exchange gains and losses

Win&P submitted that foreign exchange gains and losses were overstated in SG&A calculations for the 2012 calendar year as no export sales to Australia occurred in 2012. Win&P provided information to show the only relevant foreign exchanges gains and losses for 2012 which should be taken into account.

It is noted that Win&P argues that foreign exchange gains and losses are not relevant to wind towers, as in their view, there were no exports to Australia during 2012. However foreign exchange gains and losses are relevant to both domestic and export sales.

Establishing the cost to make and sell for like goods sold on the domestic market is necessary in order to determine whether the relevant domestic sales were sold in the ordinary course of trade. As noted by Win&P, the foreign exchange gains and losses are generated as a result of both purchases of imported items and sales of exported goods.

Whilst the Commission accepts that foreign exchange gains and losses from export sales should not be allocated to the domestic goods, foreign exchange gain and losses from imported inputs would be relevant to the domestic goods and should therefore be included in the domestic cost to make and sell.

The Commission originally allocated foreign exchange gains and losses based on actual revenue share. Win&P subsequently provided information on what it claimed were foreign exchange gains and losses relevant to the purchase of imported inputs and to be allocated to the domestic cost to make and sell.

The Commission does not accept Win&P's claim. It is clear that not all imported raw material for 2012 have been provided that would be clearly relevant to domestic and exported goods. Additionally, Win&P provided no explanation for how relevant expenses have been allocated.

The Commission rejects Win&P's claim and calculates foreign exchange gains and losses by allocating it using actual revenue as was originally done.

Rate of profit

Win&P submitted that the Commission's miscalculation of costs stemming from the issues submitted above caused it to conclude that all of Win&Ps domestic sales were at a loss. Win&P submitted that if SG&A was corrected as it has argued, then there would be domestic sales sold in the ordinary course of trade that would be relevant for determining the rate of profit to be used in the constructed normal value.

Win&P submitted that the amount of profit of 3.5% applied using data from the Korean Statistical Information Service from 2010 was unreasonable as the data was three years old and included manufactures of items including doors, boilers and nuclear reactors. Win&P submitted that if a profit is to be applied it must be from the investigation period using profitability for producers or exporters applying to the same general category of goods as wind towers.

The Australian industry submitted that the rate of profit of 3.5% proposed in the SEF was appropriate unless the reports of Win&P indicated a higher rate of profit across the business enterprise.

Details of the rate of profit calculated and applied by the Commission are at Attachment 1. In summary none of Win&Ps sales were in the ordinary course of trade, and the Commission does not have information to identify a profit using actual amounts realised in the same general category of goods or information to identify a profit using amounts from other exporters or producers.

The Commission calculated a profit under regulation 181A(3)(c) which allows for a profit using any other reasonable method. The Commission considers that the profit calculated using data from the Korean Statistical Information Service is reasonable as it applies to the manufacture of fabricated and processed metal products. The information is the most relevant and recent information available to the Commission.

Credit term adjustment

Win&P submitted that domestic credit expenses should be calculated using all sales in the investigation period using the contract date as the date of sale.

The Commission has reviewed the information submitted by Win&P and agrees that the credit calculation should be calculated using all sales relating to the contracts in the investigation period. The credit adjustment has been recalculated.

Packing and handling adjustment

Win&P submitted that the packing and handling costs should be excluded as an adjustment as they are already included in the cost to make of the exported towers.

The Commission has reviewed the information submitted and agrees that packing and handling costs should be excluded from the adjustment as these costs are included the cost to make and sell for the goods.

6.6.2 Export price

Win&P exported the wind towers to Australia directly to the importer. There was no evidence that the sales did not reflect arm-length transactions. Accordingly, the Commission recommends that export prices for sales of wind towers to Australia by Win&P were determined under s. 269TAB(1)(a) using the invoiced price from the exporter to the importer.

Export prices were established at a free-alongside-ship (FAS) point.

A weighted average unit export price of wind towers over the investigation period was calculated comprising:

- a calculated unit price for the invoiced embeds; and
- a calculated unit price for the invoiced wind towers.

6.6.3 Normal values

The Commission found that all sales of wind towers were at a loss and there were no sales made in the ordinary course of trade. As a result, a normal value is unable to be determined under s.269TAC(1).

Given the unique nature of wind towers in terms of their technical specifications, exports to third countries are not considered appropriate for establishing normal values under s.269TAD(2)(d). Pursuant to s.269TAC(2)(c), normal values were constructed for the investigation period using:

- the verified cost of production for wind towers supplied to the Mt Mercer project;
- the selling, general and administrative costs incurred in the domestic sale of wind towers during the investigation period; and
- a profit of 3.5% which reflects the profit achieved by the steel fabrication industry in Korea in 2010[11].

Details of the source and calculation of the profit applied are at **Attachment 1** to this report.

Adjustments have been made to these normal values, in accordance with s. 269TAC(9) of the Act to ensure a fair comparison of normal value and export price.

Adjustments were made for:

-
- export inland freight;
- credit terms; and
- export handling charges.

[11] Korean Statistical Information Service – 2010 is the most contemporary data available.

6.7 The Commission's assessment

A dumping margin for wind towers exported from Korea by Win&P was established in accordance with section 269TACB(2)(a), by comparing the weighted average of export prices over the whole of the investigation period with the weighted average of corresponding normal values over the whole of that period.

The calculations showed that the goods were dumped by a margin of 17.2%.

The Commission calculated that the volume of goods exported to Australia by Win&P that are dumped over the investigation period is greater than 3% of the total import volume of wind towers over the investigation period. This volume is not a negligible volume.

The Commission calculated a dumping margin for all other exporters from Korea using verified information from Win&P less any favourable adjustments.

Export prices were established under s.269TAB(3) based on verified information from Win&P.

Normal values were established under s.269TAC(6) based on verified information from Win&P but exclusive of any favourable adjustments.

The dumping margin determined for all other exporters is 18.8%.

Export prices, normal values, dumping margins and volume of exports for TSP and Win&P are at **Confidential Appendix 3.**

7 HAS DUMPING CAUSED MATERIAL INJURY?

7.1 Finding

The Commission has found that wind towers exported to Australia from China and Korea, at dumped prices, have caused material injury to the Australian industry producing like goods.

The Commission finds that the Australian industry has suffered injury caused by dumping in the form of:

- loss of sales volume;
- loss of market share;
- reduced revenues;
- price depression;
- price suppression;
- reduced profits;
- reduced profitability;
- reduced capacity utilisation;
- decline in assets and capital investment;
- reduced return on investment; and
- loss of employment.

and that this injury is material.

7.2 Australian industry claims

The applicants allege that the Australian industry has suffered material injury caused by wind towers being exported at dumped prices.

The applicants claimed the industry has been injured through:

- loss of sales volume;
- reduced market share;
- reduced revenues;
- price depression;
- price suppression; and
- reduced profits and profitability.

7.3 Approach to injury analysis

At the consideration stage, the Commission stated in CON 221 that it did not consider it appropriate to assess the injurious effects of the alleged dumping using trend analysis over a fixed injury assessment period. Instead, the injury and causal link assessment would be more meaningful if each tender was examined individually in the first instance, followed by an overall assessment as to whether injury caused by dumping is material.

The Commission came to this reasoning as the information before it showed:

- Wind towers are made to the purchasers' specifications on a project-by-project basis. Therefore, no two wind tower projects are identical. However, each wind tower must accord with the OEM's specifications regardless of its origin;

- The tender for wind towers may call for ex-works price offers, or pricing delivered to site. Local currency is used for wind tower pricing. However, at times tenders call for offers based on a mix of free-issue material components; and
- The time lag between the awarding of the tender and the actual delivery of the wind towers may result in injury being experienced a considerable time after the tender has been lost.

Following verification of information with importers, exporters and industry the Commission remains of the view that the injury analysis, as detailed in this section, should be primarily based on information in respect of specific tenders.

The period between awarding a contract and the first supply and thus recognition of supply may be up to nine months whilst the supply and revenue recognition of wind towers for a project can occur over a two year period.

As noted at Section 4 each wind tower project may be unique in its requirements which affects pricing and costs through factors such as the number of towers required, the specifications for those towers, the delivery terms and the free issue items provided for in the tender.

The Commission has treated the date of awarding the contract for a tender as the effective date of sale in its analysis, as effectively from this date the sales in terms of future revenue and volumes has been awarded to the successful party.

The Commission has examined the tenders that were contracted during the investigation period for causal link and material injury analysis. The tenders over the injury period have been examined for the analysis of the market and industry performance.

During the investigation period Keppel Prince, Haywards, RPG and E&A Contractors all tendered for and/or were awarded contracts for wind tower projects.

Keppel Prince tendered for all available contracts and was awarded 81 wind towers whilst E&A Contractors was awarded 20 towers. E&A Contractors only commenced manufacturing wind towers in the last quarter of the investigation period.

Haywards successfully tendered for a project during the injury analysis period. However, the contract date for the project occurred prior to the investigation period. Whilst Haywards undertook production of wind towers during the investigation period and is therefore a part of the Australian industry, it made no sales during the investigation period which could be examined for the purposes of establishing a causal link between dumping and injury suffered.

Therefore, in examining the material injury claims made by the applicants, the Commission has relied on sales information by Keppel Prince. As Keppel Prince is the major Australia producer of wind towers over the investigation period, Keppel Prince's economic condition is considered to be representative of the Australian industry as a whole.

7.3.1 Cumulation of injury

Subsection 269TAE(2C) provides for consideration of the cumulative effect of exports from different countries, if, after having regard to:

- the conditions of competition between the exported goods; and
- the conditions of competition between the exported goods and the like goods that are domestically produced;

the Parliamentary Secretary is satisfied that it is appropriate to consider the cumulative effects.

Based on the information provided in the application and gathered and verified during the investigation, the Commission is satisfied that in respect of the market for wind towers that the conditions of competition between imported and domestically produced like goods appear to be similar.

As discussed at Section 3, the Commission is satisfied that wind towers manufactured by the Australian industry are like to the imported wind towers, including similar primary physical characteristics, similar end-uses, and imported wind towers and locally manufactured wind towers compete in the same market.

The Commission considers that it is appropriate to consider the cumulative effect of the imports wind towers from China and Korea.

7.4 Volume effects

In assessing volume effects the Commission has examined the number of wind towers placed for tender over the investigation period, the number of wind towers that Keppel Prince successfully bid for, and the number of wind towers where Keppel Prince was unsuccessful.

There were 291 towers over five projects available for tender, with Australian industry being awarded a total of 101 towers, 56 were awarded to China, 64 to Korea and 70 to a country not the subject of investigation.

The Commission requested information in relation to lost bids, Keppel Prince claimed it had bid for and lost the following tenders in the investigation period to the allegedly dumped imports from China and Korea.

- The Gullen Range project in NSW comprised 73 wind towers, Keppel Prince quoted for 73 towers and was awarded 17 towers whilst 56 towers were sourced from China.
- The Snowtown II project in South Australia comprised 90 wind towers, Keppel Prince quoted for 90 and was unsuccessful, E&A Contractors were awarded 20, whilst 70 were sourced from a country other than China or Korea.
- The Mt Mercer project in Victoria comprised 64 wind towers, Keppel Prince quoted for 64 and was unsuccessful with the 64 wind towers sourced from Korea.

All of the above tenders were awarded in the 2012 calendar year. The total available for tender was 240 wind towers of which Keppel Prince was successful in obtaining 30 wind towers and another industry member E&A obtained 20 wind towers.

There was one tender available in the first six months of 2013 that is part of the investigation period, the Taralga project in Victoria that comprised 51 wind towers. Keppel Prince quoted for and was awarded all 51 towers.

The industry market share for the 2012 calendar year and the investigation period is the lowest it has been over the injury analysis period, falling to below 60% during the investigation period.

The Commission analysed the tendered prices from the Australian industry and corresponding prices from Chinese and Korean exporters for the Mt Mercer (64 towers) and Gullen Range (56 towers).

The analysis shows that the prices from China and Korea substantially undercut the prices of the industry in the range of 10 to 20%. The Commission considers that it is reasonable to conclude that the amount of the undercutting was the prime factor in the decision to award the contracts to Korea and China.

The Commission then analysed the contracts based on un-dumped prices and considers that, had the wind towers from China and Korea been offered at un-dumped prices, the Australian industry would have been considerably more competitive in the tenders.

The Commission considers that based on correspondence gathered during the investigation and taking into account movements in prices, the tender bids of competing parties and the dumping margins found, the Australian industry would likely have been successful in both tenders that it lost to China and Korea.

The Commission finds that the dumped exports from China and Korea contributed to the injury suffered by the Australian industry in the form of lost actual and potential sales volumes and reduced market share over the investigation period.

7.5 Price effects

Price depression occurs when a company, for some reason, lowers its prices. Price suppression occurs when price increases for the company's product, which otherwise would have occurred, have been prevented.

Gathered information in relation to the Mortons Lane project for 13 wind towers shows that Keppel Prince reduced its prices on several occasions. The information also showed that industry's prices were in direct competition to dumped imports which were undercutting Keppel Prince's tender offer.

Gathered information in relation to the Gullen Range project for the 17 towers, 85 metres high designed for a 1.5 MW capacity also shows that Keppel Prince reduced its tender offers in response to feedback from tenderers. As outlined earlier, competing dumped import prices were significantly undercutting Keppel Price's tender offers.

Keppel Prince claimed that all bids are assessed on the basis of their gross profit contribution to the company, and that it had experienced a fall in its gross profit and net profit margins. The Commission compared the margins that Keppel Prince achieved over the injury period as shown in Figure 2 below.

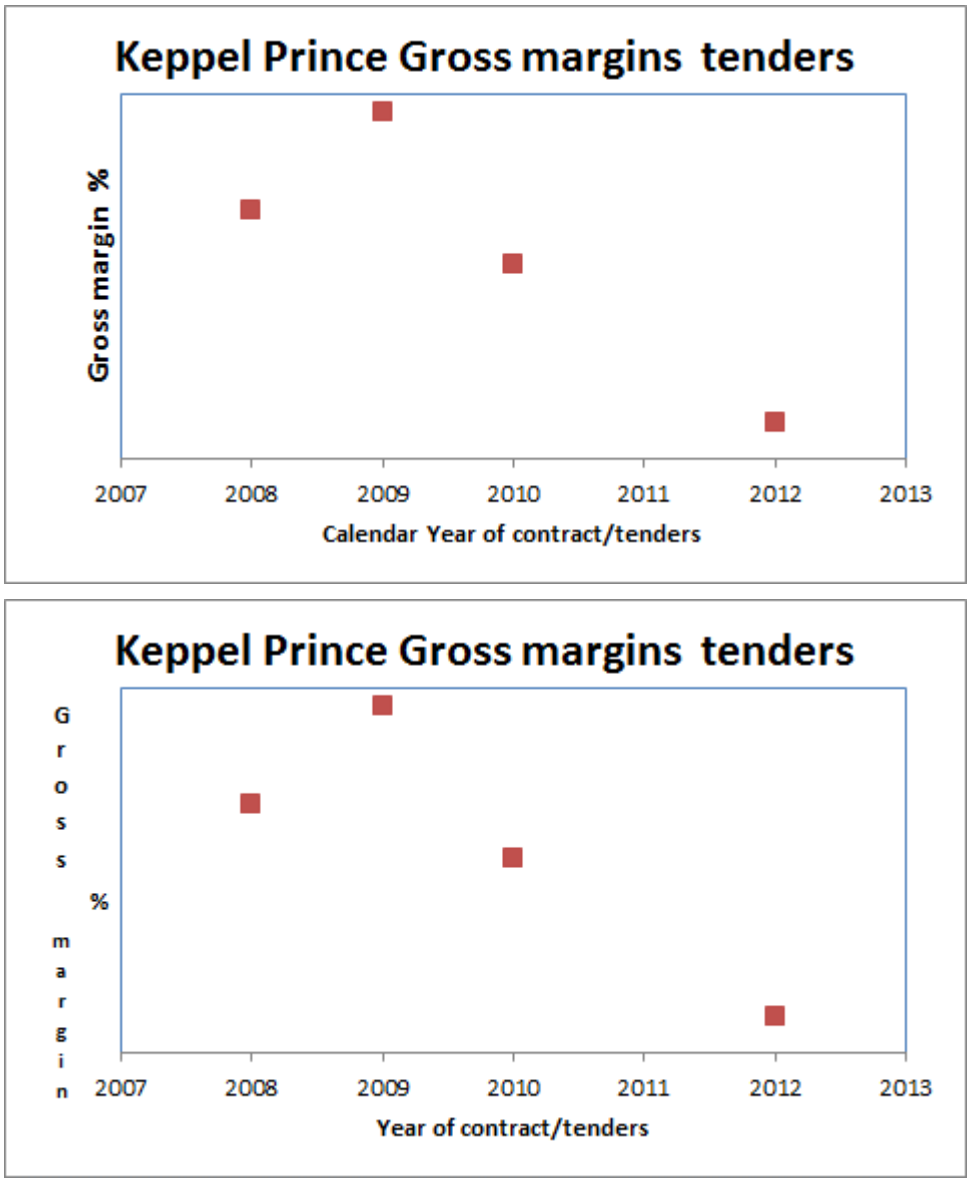


Figure 2 – Keppel Prince gross margin analysis

The chart shows that Keppel Prince's margins increased in 2009 before decreasing in 2010 and 2012. Keppel Prince did not win any tenders in 2011.

The Commission considers that on the basis of this information that Keppel Prince has suffered injury in the form of price suppression.

The Commission finds that the undercutting caused by the offers of dumped imports on the Mortons Lane and Gullen Range (17 towers) projects contributed to the price depression and suppression that the Australian industry experienced as it reduced prices in response to the dumped price offers.

Taralga

The Taralga tender was for 51 wind towers, the tender for the 51 towers was won by Keppel Prince. Keppel Prince claimed that price pressures it was experiencing for Taralga were from wind towers sourced from China.

Available information appears to support the claims of price pressures from China. However as wind towers from China were not found to have been exported for this project

and the only exports determined to be dumped from China were for Gullen Range, the Commission is unable to establish a link between dumped prices from China to the claimed injury. The Commission has not attributed any injury suffered by the Australian from the Taralga project to that caused by the dumped exports.

7.6 Profit effects

The Commission assessed profit effects based on verified information from Keppel Prince.

Figure 2 on the gross margin analysis in the previous section shows that Keppel Prince's profitability has been declining from 2009. Keppel Prince's level of profits are determined by the number of tenders it wins in the market and in a fluctuating market its' profits are affected as much by the number of tenders available to supply.

Given that Keppel Prince lost volumes, suffered price depression and price suppression in 2012 which can be attributable in part to dumped imports, the Commission finds that the Australian industry has suffered injury caused by dumping in the form of reduced profits and profitability.

7.7 Other economic factors

Section 269TAE(3) of the Act provides a reference to other relevant economic factors to have regard to in determining whether material injury to an Australian industry has been caused.

The Commission examined data from Keppel Prince relating to other economic factors to see whether they supported or detracted from the volume, price and profitability indicators. All references to years are calendar years unless stated otherwise.

7.7.1 Assets

The value of assets in the production of wind towers has declined since 2009.

7.7.2 Capital investment

Capital investment increased from 2009 to 2011 but has steadily fallen since then.

Keppel Prince provided copies of minutes of board meetings to show that it had plans to invest more in its wind towers business through increasing its capacity. Keppel Prince claimed that these plans were contingent on Keppel Prince being able to secure wind tower contracts and the planned expansion was put on hold due to the entry of the alleged dumped imports from China and Korea

7.7.3 Research and development (R&D) expenditure

R&D expenditure was not provided.

7.7.4 Revenue

Revenue is influenced by the type of wind towers awarded for tender, for example height and inclusion of embeds and internals and the terms of delivery, for example free on truck or ex-works.

Revenue for wind towers was relatively stable from 2009 to 2010 and has decreased in 2012. This decrease can be attributed to Keppel Prince not winning tenders for Gullen range and Mt Mercer in 2012.

7.7.5 Return on investment

Return on investment, measured as earnings before interest and tax over total assets, fell consistently from 2009 to 2103.

7.7.6 Capacity

Capacity for the production of wind towers per year has remained constant over the period.

7.7.7 Capacity utilisation

Capacity utilisation fell from 2009 to 2010 and has fallen steadily since then.

7.7.8 Employment

Employment was relatively stable from 2009 to 2011 but staff numbers have reduced each year since then.

7.7.9 Productivity

Productivity, measured as the number of wind tower units produced per person, was relatively stable in 2009, 2011 and 2012 with declines in 2010 and the half year to June 2013.

7.7.10 Wages

The wage bill declined from 2009 to 2012, increased in 2011 and decreased from then in line with production.

7.8 Commission's assessment

The Commission considers that price was the predominant factor in the awarding of tenders and choice of supplier.

The Commission has found that dumped imports from China and Korea have caused lost sales volumes, price depression, price suppression and loss of profits and profitability.

The Commission considers that the decline in assets and capital investment is mainly due to the dumped imports from China and Korea. Evidence provided by Keppel Prince supports the contention that a planned increase in capacity, and thus also assets, was put on hold due to the failure to win tenders that were lost to the dumped imports from China and Korea.

Further, the Commission regards the decrease in revenues and return on investment as being due to the dumped imports from China and Korea. The decrease in revenues can reasonably be attributed to lost revenue from tenders lost to dumped imports and lost revenue from price depression caused by dumped import offers.

The Commission considers that the loss in capacity utilisation, decreases in employment and the wages bill are due to tenders lost to the dumped imports from China and Korea, which had they not been lost would have seen increased production.

7.9 Other causes of injury

The Commission is required to consider whether injury to an industry is being caused or threatened by a factor other than the dumped imports[12].

The applicants noted that the strong Australian dollar has made imported wind towers more affordable but submitted that if the strong Australian dollar was the only factor affecting the affordability and price competitiveness of imported wind towers, then it would expect to see strong gains in market share from other import sources besides China and Korea. The applicants stated that the impact of the strong Australian dollar does not detract from the submission that dumping has caused material injury to the Australian industry.

The applicants noted that demand for the supply of wind towers in the Australian market is driven by government renewable energy policy that saw the Australian market contract in 2010 and 2011. The applicants submitted that notwithstanding the contraction in the size of the Australian market, the Australian industry lost market share to dumped imports in 2010, before recovering in 2011 and again losing market share in a growing market in 2012.

The applicants stated that they have always satisfied the qualification standards of its OEM clients for quoted Australian wind farm projects and submitted that the issue of qualification has never been a factor causing it not to be awarded a project.

The applicants submitted that the factors other than dumping did not detract from the conclusion that material injury is based on the price, volume and profit factors caused by the dumped imports.

7.10 Submissions to the investigation

7.10.1 Market characteristics

Goldwind submitted that markets with lower levels of concentration such as that in Australia, are generally characterised by lower prices and/or higher levels of service as firms must compete against each other for any given sale to remain viable. In such markets firms must innovate and maximise efficiencies to remain competitive. Goldwind saw the Australian market as very volatile and highly concentrated.

Goldwind stated that it preferred to procure wind towers locally and can and does pay a premium but its ability to do so is limited by the economics of its projects and its competitor's projects.

In its response to SEF 221, Goldwind submitted that it should be clearly stated whether the capacity of the industry is appropriate for the market size and details of market size and capacity should be provided.

[12] Subsection 269TAE(2A)

Senvion submitted that the appreciation of the Australian dollar, demand variability in the Australian market, local transport costs and lower economies of scale for Australian producers also needed to be taken into account in the injury assessment. Senvion also questioned industry market figures and whether the wind tower market would double in the next years due to uncertainty over renewable energy targets.

Titan submitted other factors causing injury to the industry were costs (only one supplier of steel plate), economies of scale and efficiencies, higher labour costs, the fragmented nature of the market, inexperience and the lack of bargaining power on raw material costs.

GE submitted that the Commission should consider local factors (such as input and compliance costs) undermining industry competitiveness, uncertainty in the renewable energy market and the high Australian dollar.

GE noted that the financing of $37.5 million by the Clean Energy Finance Corporation (CEFC) to another Australian wind farm project to facilitate the use of Australian engineered and built wind towers highlighted the need to the need to further develop the manufacturing and supply chain capacity.

Keppel Prince claimed that the level and impact of dumping was greater than the effect of currency movements. Whilst market variability was a concern, the injury caused by dumping was more severe and outweighed any volume scale advantages overseas manufacturers may have.

Keppel Prince argued that the CEFC financing enabled the local supply of towers during the period of investigation which allowed the Australian supply chain to be fully optimised.

Non-price related factors

Senvion submitted that wind tower suppliers have become more specialised as they supply wind turbine manufacturers for different wind farm projects around the world. This is to be contrasted with the Australian industry which has not specialised in wind tower production and does not export wind towers.

Senvion further submitted that with this global supply chain a range of criteria is used to select a supplier. Senvion summarised its criteria as:

1. High quality products and associated services;
2. Internal design certification;
3. Meeting customer deadlines;
4. Production of compete wind towers; and
5. Price.

Senvion submitted that whilst price is an important consideration, a supply contract can only be issued to an accredited supplier or suppliers that can achieve accreditation within the project delivery timeframes.

Senvion also stated that accreditation can lapse where a supplier has not manufactured products within a defined period. The sporadic and inconsistent demand in Australia meant that local suppliers were more likely to need re-accreditation, however the short deadlines do not allow sufficient time to qualify local wind tower suppliers.

In its response to SEF 221, Senvion reiterated its earlier view that if a supplier does not provide products for a certain period it loses accreditation as happened in Australia. Pre-

qualification is required to ensure required high standards for products and tight project timeframes meant qualification could not be done in parallel with the tendering process.

Senvion further submitted that even if price was the determining factor (which Senvion denied it was) the exported wind towers at an un-dumped price would not have changed the selection of the tower supplier.

Finally, Senvion claimed that the procedure of encouraging suppliers to reconsider their offers is routine and does not reduce the importance of other project criteria such as product quality, production capability and project deadlines.

Goldwind agreed with the Senvion submission that tenders for wind towers are not solely price related and that a causal link needed to be demonstrated between any injury suffered and dumping.

Keppel Prince disagreed with claims by Senvion about the industry not being specialised, claiming it invested heavily in specific tower manufacturing plant and equipment and tower revenue was a major source of income over the past decade. It also refuted claims that Australian made towers have issues relating to quality, reliability and supply and submitted that it had a long track record of reliability and quality.

Keppel Prince also submitted that up until the Mt Mercer project, it had manufactured all of the Senvion towers in Australia and that it had been informed by Senvion that the pre-qualification process for 2012 would not disadvantage the local suppliers in the tender. Keppel Prince's understanding was that it was always eligible to manufacture towers under supervision from Senvion and it did not go through the pre-qualification audit until after the tender was awarded.

Titan submitted that price was not the determinative element in tender selections and that no causal link can be found between the alleged dumping and the alleged injury. Titan submitted that the following five elements were the determinative factors:

1. Reputation/quality;
2. Ability to deliver on time;
3. Commercial/ payment terms;
4. Costs of raw material – steel/ flanges/ internals; and
5. Tower supplier fabrication price.

7.11 The Commission's assessment

7.11.1 Market characteristics

The Commission reviewed relevant information in relation to the tenders that took place during the investigation period along with Australian industry's production capacity. The information shows that the applicants had the capacity to handle the available tenders.

The Commission accepts that the dynamics of the Australian market are changing due to uncertainty surrounding renewable energy targets. The Commission also notes the various characteristics identified by interested parties in the Australian market that would impact on the Australian industry's competitiveness.

However the Commission does not consider that these issues diminish the strong and specific evidence in respect of the particular tenders that took place during the investigation period. The information showed that price was a critical factor in the decision

to award tenders to the suppliers under investigation and that the applicant's would have been competitive if competing against undumped prices in the market.

The Commission has not separately assessed the effect of the appreciation of the Australian dollar as an injury effect except to note that imports would be more price competitive. This increased competitiveness would necessarily mean that industry could expect lower prices, profits and profitability due to the change in the dollar.

7.11.2 Imports from countries not under investigation

As noted in section 7.4 of this report, The Snowtown II project in South Australia comprised 90 wind towers with the majority being were awarded to a supplier from a country other than China or Korea. The successful supplier for this tender has not appeared in any of the other tenders that took place during the investigation period.

The Commission considers that the industry has suffered injury as a result of the Snowtown II project through loss of sales volumes, loss of market share, reduced capacity utilisation and reduced revenues and loss of profits and profitability. As a result, none of the injurious effects stemming from this lost tender have been attributed to dumped exports from China or Korea.

Senvion claims that tender offers made by suppliers from countries not subject of the investigation were more competitive than those from Australian manufacturers. To conclude that the Australian industry would not have won the Mt Mercer tender in a market unaffected by dumping requires the Commission to enter a difficult area as it involves speculating on what might have happened in hypothetical situations.

The difficulty of this task is increased by:

- the importance of factors other than price to the purchasing decision and the fact that the lowest priced option is not always preferred – therefore the Commission cannot deduce a likely outcome from the prices tendered;
- in most cases, the lack of documentation which would clearly indicate which party would have been successful in the absence of dumped goods; and
- the distortion to the market and prices offered in tenders by other bidders who were aware of the presence of dumped goods from Korea and the prices at which these goods were being offered to and selected by the Australian market.

Senvion appears to be suggesting that the Commission should not regard as injury the tender won by Win&P unless there was evidence that the Australian industry would have won the tender in the absence of dumped goods.

The Commission considers that unless there is strong and positive evidence that the Australian industry would not have won the tender it is reasonable to conclude that the tenders won at dumped prices have caused or threatened injury to the Australian industry.

7.11.3 Non-price related factors

The Commission considers that price was the predominant factor in the awarding of tenders and choice of supplier. In the case of the Mt Mercer project, the Commission notes correspondence from Senvion advising Australian producers that their prices were not competitive and encouraging them to reconsider their offers. Further correspondence shows that after the tender was awarded to Win&P with the lowest tender price, Senvion

informed Keppel Prince that it was unsuccessful and its price was significantly higher than the successful tender offer.

At no point during the tender negotiations did Senvion inform Keppel Prince that it had not met pre-qualification. In fact, the evidence appears to confirm that pre-qualification was not an issue as previous projects had involved towers being manufactured under supervision whilst the relevant suppliers were undergoing pre-qualification certification.

In the case of the Gullen Range project, the Commission also notes correspondence between the relevant parties during the tender process. In particular, Goldwind informing local suppliers that they were not competitive and urging them to consider making revised offers.

The Commission is of the view that the available evidence demonstrates that price was a critical factor in the decision to award the Mt Mercer and Gullen Range projects to dumped imports.

The Commission also accepts that exports by Win&P at the undumped normal value would have remained competitive against other tender offers. However, an analysis of pricing for six other wind farm projects, including Gullen Range and Mt Mercer found evidence that prices from local suppliers need not have been the lowest in order to win some part or all of the towers on offer. This was confirmed by Goldwind in its submission to the investigation.

Further, it is reasonable to expect that had Win&P tendered an undumped price, the Australian industry members may have chosen to offer a further reduced price in an attempt to win the tender.

The Commission recognises that factors other than prices were relevant to the decision to award the tender. However, the evidence ultimately showed that price was a critical and determinative factor.

7.12 Materiality of injury caused by dumped exports

7.12.1 Introduction

This section examines whether dumped imports of wind towers from China and Korea have caused material injury to the Australian industry.

The Parliamentary Secretary may publish a dumping duty notice, and impose anti-dumping measures on future exports of like goods, where the Parliamentary Secretary is satisfied that:

- the amount of the export price of the goods is less than the amount of the normal value of those goods; and
- because of that, material injury to the Australian industry producing like goods has been or is being caused or is threatened, or the establishment of an Australian industry producing like goods has been or may be materially hindered; or
- in a case where security has been taken under section 42 in respect of any interim duty that may become payable on the goods under section 8 of the Dumping Duty

Act – material injury to an Australian industry would or might have been caused if the security had not been taken[13]..

The Parliamentary Secretary may publish a dumping duty notice, and impose anti-dumping measures on future exports of like goods, where the Parliamentary Secretary is satisfied that:

- the amount of the export price of the goods is less than the amount of the normal value of those goods; and
- the amount of the export price of like goods that may be exported to Australia in the future may be less than the normal value of the goods; and
- because of that, material injury to the Australian industry producing like goods has been or is being caused or is threatened, or the establishment of an Australian industry producing like goods has been or may be materially hindered[14].

7.12.2 Materiality

The Commission has found that exports of wind towers from China and Korea were dumped with margins of 15.0% and 17.2% respectively. The volume of dumped exports was not negligible.

The assessment of the materiality of the injury is based solely on the effects of the dumped exports from China and Korea.

The Commission has found that the Australian industry suffered injury in the form of loss of sales volumes, loss of market share, price depression, price suppression, reduced profits and profitability, decline in assets and capital investment, decrease in revenues and return on investment, loss in capacity utilisation, decreases in employment and the wages bill are mainly due to tenders lost to the dumped imports from China and Korea.

In assessing whether the injury caused by dumping is material, the Commission has calculated the revenue lost from the Mt Mercer and Gullen Range (56 towers) tenders. The Commission has calculated this lost revenue to be in a range of $55 to $65 million dollars in a market calculated in the investigation period to be worth between $110 to $130 million dollars. The Commission considers this loss of revenue to be material and the injury from this lost revenue to be material.

The Commission has calculated the effect of the price depression and price suppression from the Mortons Lane and Gullen Range (17 towers) projects on revenue and profits and profitability. The Commission has calculated the reduction in revenue as being significant and contributing to the materiality of the injury. The resulting impact on profitability is in ten percentage points and the Commission considers this contributed to the materiality of the injury.

The Commission has calculated the effect of the lost sales volumes on capacity utilisation, these calculation shows that capacity utilisation was more than half of what it would be expected if the tenders had not been lost. The Commission considers this reduction in capacity utilisation contributed to the materiality of the injury. The Commission calculated the effect of reduced production and sales volumes from the lost sales and estimates that the difference to be around 33% in sales costs and a significant

---

[13] s.269TG(1)

[14] s.269TG(2)

increase in divisional costs. These costs are affected by the amount of wind towers produced and sold and lower volumes will lead to increased costs that affect profits and profitability. The Commission considers the effect of reduced production and sales volumes on costs, and ultimately profits, and profitability, contributes to the materiality of the injury.

Based on the above assessments the Commission finds that the injury caused by the dumped exports of wind towers from China and Korea is material.

7.13 The Commission's assessment

The Commission finds that wind towers exported to Australia from China and Korea at dumped prices has caused material injury to the Australian industry producing like goods. The Commission finds that the Australian industry has suffered material injury caused by dumping in the form of:

- loss of sales volume;
- loss of market share;
- reduced revenues;
- price depression;
- price suppression;
- reduced profits;
- reduced profitability;
- reduced capacity utilisation;
- decline in assets and capital investment;
- reduced return on investment; and
- loss of employment.

Details and calculations for injury, pricing and material injury caused by the dumped goods are at **Confidential Appendix 4**.

8 WILL DUMPING AND MATERIAL INJURY CONTINUE?

8.1 Findings

The Commission makes a finding that exports of wind towers from China and Korea in the future may be at dumped prices and that continued dumping may cause further material injury to the Australian industry.

8.2 Dumping

The Commission's dumping analysis found that wind towers exported from China and Korea during the investigation period were found to be at dumped prices, with dumping margins of 15.0% and 17.2% respectively.

The Commission understands that tender contracts continue to be assessed by importers and end-users and that exporters of the dumped goods from China and Korea continue to submit tender offers for the supply of those contracts. The Commission notes that the wind towers exported from China and Korea have a significant share and influence in the Australian market.

The Commission considers that dumping will continue if anti-dumping measures are not imposed.

8.3 Material injury

The Commission has reviewed the Australian industry's performance over the injury analysis period and has made a finding that wind towers exported at dumped prices from China and Korea has caused material injury to the Australian industry.

The Commission considers that the continuation of price competition from dumped imports from China and Korea is likely to have a continuing adverse impact on the Australian industry in the lost sales volumes and revenues, price depression and price suppression, reduced profits and profitability, reduced revenues and reduced capacity utilisation.

Based on the available evidence, the Commission makes a finding that exports of wind towers from China and Korea in the future may be at dumped prices and that continued dumping may cause further material injury to the Australian industry.

9 NON-INJURIOUS PRICE

9.1 Assessment of NIP

The Commission has assessed that it is appropriate to recommend that the non-injurious price of the goods exported to Australia be set by reference to the corresponding normal values during the investigation period.

9.2 Introduction

Dumping duties may be applied where it is established that dumped imports have caused or threaten to cause injury to the Australian industry producing like goods. The level of dumping duty cannot exceed the margin of dumping, but a lesser duty may be applied if it is sufficient to remove the injury. This lesser duty provision is contained in the World Trade Organization Anti-Dumping Agreement and the *Customs Tariff (Anti-Dumping) Act 1975*.[15]

The calculation of the NIP provides the mechanism whereby this lesser duty provision is given effect. The NIP is the minimum price necessary to prevent the injury, or a recurrence of the injury, caused to the Australian industry by the dumping and subsidisation[16].

Anti-dumping measures are based on free-on-board (FOB) prices in the country of export. Therefore a NIP is calculated in FOB terms to compare to the country of export.

9.3 Unsuppressed selling price

9.3.1 Submissions

The Australian industry submitted that the NIP should be set at normal value level.

9.3.2 The Commission's assessment

The Commission generally derives the NIP by first establishing a price at which the Australian industry might reasonably sell its product in a market unaffected by dumping. This price is referred to as the unsuppressed selling price (USP).

The Commission considers that a USP cannot be established in relation to wind towers produced by the Australian industry.

Each wind tower is a unique product with many variables and differences in technical specifications, delivery terms and payment terms and inclusions of free items that affect the pricing.

The range of pricing that could apply to wind towers means it is unrealistic to establish a USP that could be used to derive a NIP that would apply to future imports of wind towers.

---

[15] Subsection 8(6) of the *Customs Tariff (Anti-Dumping) Act 1975*

[16] The non-injurious price is defined in section 269TACA

The Commission considers that it is appropriate to recommend that the non-injurious price of the goods exported to Australia be set by reference to the corresponding normal values during the investigation period.

10 PROPOSED MEASURES

10.1 Background

Recent changes to the legislation allow the Parliamentary Secretary to utilise additional methods of calculating the interim dumping duty beyond the single form that was previously available in the Act. The new forms of duty are prescribed in the *Customs Tariff (Anti- Dumping) Regulation 2013* and include:

- Combination of fixed and variable duty method;
- Floor price duty method;
- Fixed duty method ($X per tonne); or
- ad valorem duty method (ie a percentage of the export price).

10.2 Proposed measures

The Commission proposes to recommend to the Parliamentary Secretary that a dumping duty notice be published in respect of wind towers exported from China and Korea to Australia for all exporters.

The lesser duty rule can only reduce the amount of interim dumping duty where the NIP is lower than the ascertained normal value (the export price plus the dumping margin).

For all goods the NIP has been set at the level of the normal values for respective exporters. This means that the lesser duty rule does not come into effect and the proposed measures are linked to the full margin of dumping.

The Commission proposes to recommend that the dumping duties take an ad valorem form to be calculated as a percentage of the particular export price.

11 RECOMMENDATIONS

The Commissioner is satisfied that:

- the dumping of wind towers exported to Australia from China and Korea has caused material injury to the Australian industry producing like goods.

The Commissioner recommends the Parliamentary Secretary impose:

- dumping duties on wind towers exported to Australia from China and Korea.

The Commissioner recommends the Parliamentary Secretary be satisfied:

- in accordance with s.269TAAD(1), that like goods sold in the country of export (Korea) in arms' length transactions in substantial quantities during an extended period for home consumption:
  - at a price that is less than the cost of such goods and;
  - it is unlikely that the seller of the goods will be able to recover the cost of those goods within a reasonable period;
- the price paid for those goods is taken to not have been paid in the ordinary course of trade;
- in accordance with s.269TG(1) the amount of the export price of wind towers that has been exported to Australia from China and Korea is less than the amount of the normal value of those goods and because of that, material injury to the Australian industry producing like goods has been, or is being caused;
- in accordance with s.269TG(2) the amount of the export price of wind towers already exported to Australia from China and Korea is less than the amount of the normal value of those goods and the export price of the goods that may be exported to Australia from China and Korea in the future may be less than the normal value of the goods and because of that, material injury to the Australian industry producing like goods has been, or is being caused.

The Commissioner recommends the Parliamentary Secretary determine:

- in accordance with s.269TAB(1)(c) the export prices for exports by TSP be calculated having regard to all the circumstances of the exportation;
- in accordance with s.269TAC(2)(c), the cost of production or manufacture of wind towers in the country of export, and the administrative, selling and general costs associated with the sale and the profit on that sale;
- in accordance with s.269TAAD(4), the amounts for the cost of production or manufacture of wind towers in the country of export and the administrative, selling and general costs associated with the sale of those goods;
- in accordance with regulation 180(6) the costs of steel plate and flanges for the wind towers manufactured by TSP do not reasonably reflect competitive market costs;
- in accordance with regulation 181A(7) the administrative, general and selling costs for the wind towers manufactured by Win&P do not reasonably reflect those costs associated with the sale of those goods;
- in accordance with regulation 181A(7) the negative finance costs in the amounts for administrative, selling and general costs in the records of TSP are not reliable

as those amounts do not reasonably reflect the administrative, general and selling costs associated with the sale of the like goods;

- in accordance with s.269TAC(5B) and regulation 181A(3)(c) the amount to be the profit on the sale of the goods by Win&P under s.269TAC(2)(c)(ii);
- in accordance with s.269TAC(5B) and regulation 181A(2) the amount to be the profit on the sale of the goods by TSP under s.269TAC(2)(c)(ii);
- in accordance with s.269TACB(1), by comparison of the weighted average of export prices during the investigation period and the weighted average of normal values during that period, that exports of wind towers from China and Korea were dumped;
- in accordance with s. 269TACB(2)(a) by comparison of the weighted average of export prices during the investigation period and the weighted average of normal values during that period, that exports of wind towers from China and Korea were dumped;
- in accordance with s.269TAB(3) the export prices for exports by all other exporters from China be determined by having regard to all relevant information;
- in accordance with s.269TAC(6) the normal values for exports by all other exporters from China be determined by having regard to all relevant information;
- in accordance with s.269TAB(3) the export prices for exports by all other exporters from Korea be determined by having regard to all relevant information;
- in accordance with s.269TAC(6) the normal values for exports by all other exporters from Korea be determined by having regard to all relevant information.

The Commissioner recommends the Parliamentary Secretary adjust:

- in accordance with s.269TAC(9), the ascertained normal values for China and Korea be adjusted as are necessary to ensure that the normal values so ascertained are properly comparable with the export prices of the goods.

The Commissioner recommends the Parliamentary Secretary compare:

- in accordance with s.269TACB(2)(a), the weighted average of export prices over the whole of the investigation period with the weighted average of corresponding normal values over the whole of that period.

The Commissioner recommends the Parliamentary Secretary declare:

- in accordance with s.269TG(1), by public notice, that section 8 of the Dumping Duty Act applies to:
    - wind towers exported by all exporters from China and Korea to the extent permitted by s.269TN; and
    - like goods that were exported to Australia by all exporters from China and Korea after the delegate of the Commissioner made a PAD under s.269TD on 6 December 2013 but before publication of the notice, to the extent permitted by s.269TN.

- in accordance with s.269TG(2), by public notice, that section 8 of the Dumping Duty Act applies to like goods that are exported to Australia by all exporters from China and Korea after the date of publication of the notice.

12 APPENDICES AND ATTACHMENTS

Attachment 1	Calculation of profit Win&P
Attachment 2	Notices
Confidential attachment 1	Schedules
Confidential appendix 1	Market
Confidential appendix 2	Steel uplift
Confidential appendix 3	Export prices, Normal Values, Dumping Margins, volume of exports.
Confidential appendix 4	Pricing, injury, materiality and causal link.

ATTACHMENT 1 – CALCULATION OF PROFIT WIN&P

Where normal values are established under subsection 269TAC(2)(c)(ii) subsection 269TAC(5B) says the profit on that sale must be worked out as the regulations provide.

The regulation applying to the determination of profit is regulation 181A of *Custom Regulations 1926* made under the Act.

Under regulation 181A(2) a profit should be worked out using data relating to the production and sales of like goods by the exporter in the ordinary course of trade. None of Win&Ps sales were in the ordinary course of trade.

Regulation 181A(3)(a) allows for a profit using actual amounts realised in the same general category of goods. The Commission does not have information to identify such amounts.

Regulation 181A(3)(b) allows for a profit using amounts from other exporters or producers. The Commission does not have information to identify such amounts.

The Commission has calculated a profit under regulation 181A(3)(c) which allows for a profit using any other reasonable method.

The Commission referenced various websites searching for data relating to profits for wind tower manufacturers. There was no data available.

The Commission then accessed data from the Korean Statistical Information Service at http://kosis.kr/eng/search/search_001000.jsp .

The Commission downloaded from the site a table of Korean Statistical Information Service Indicators of profit and productivity and stability for 2010. Within the table was data relating to the manufacture of Fabricated and Processed Metal Products (excludes machinery and furniture).

The Commission calculated from this data a weighted average profit on sales revenue of 3.34%. This profit was then grossed up to 3.5% to apply to the calculated cost to make and sell for the normal value.

The data used is the most up to date information that the Commission found on that was relevant to the industry segment that the Commission considers would apply for manufacturers of wind towers. The Commission considers that the profit calculated is reasonable as it applies to the manufacture of fabricated and processed metal products. The Commission considers this category would apply to the manufacturer of wind towers.

The Commission has calculated a weighted average profit from the data. Regulation 181A(4)(c) notes that where a method is used under regulation 181A(3)(c) such an amount worked out should not exceed the amount of profit realised by other exporters and producers on sales of the same general category of goods.

The Commission does not have information to identify such amounts and considers that calculating a weighted average profit from the data is reasonable.

The Commission recommends that the Parliamentary Secretary determine a profit using the data relating to the manufacture of Fabricated and Processed Metal Products.

Data tables and the calculation of the profit from the tables are set out on the following pages.

Name :

Period : STATISTICS KOREA

Annual sales by net profit Ratio to annual sales and industrial classification 2-digit

Annual/2010~2010

By industry		Annual sales	The net profit ratio for this term<-10%	-10% ≤The net profit ratio for this term<-8%	-8% ≤The net profit ratio for this term<-6%	-6% ≤The net profit ratio for this term<-4%	-4% ≤The net profit ratio for this term<-2%	-2% ≤The net profit ratio for this term<0%	0% ≤The net profit ratio for this term<2%	2% ≤The net profit ratio for this term<4%	4% ≤The net profit ratio for this term<6%	6% ≤The net profit ratio for this term<8%	8% ≤The net profit ratio for this term<10%	10% ≤The net profit ratio for this term
Whole industry	Whole industry	2,414,284,585	54,290,093	4,958,097	6,961,641	12,043,370	53,625,592	44,817,352	519,106,657	461,417,664	358,819,115	241,330,271	152,283,605	504,631,128
Whole industry(excep	Whole industry(except for financial institutions& insurance	1,876,772,080	50,000,081	4,798,710	6,128,199	11,934,263	48,530,742	32,334,221	315,273,048	396,655,821	262,819,498	163,406,693	120,003,550	464,887,254
Agriculture, Forestry a	Agriculture, Forestry and Fishing	1,042,541	6,803	0	13,878	0	0	0	106,603	353,266	128,506	30,471	58,921	344,093
Agriculture, Forestry a	Agriculture	247,642	3,156	0	0	0	0	0	92,248	115,461	0	0	16,758	20,019
Agriculture, Forestry a	Forestry	0	0	0	0	0	0	0	0	0	0	0	0	0
Agriculture, Forestry a	Fishing	794,899	3,647	0	13,878	0	0	0	14,355	237,805	128,506	30,471	42,163	324,074
Mining and Quarrying	Mining and Quarrying	520,366	11,217	17,978	0	0	0	55,729	19,132	0	96,264	128,712	152,692	38,642
Mining and Quarrying	Mining of Coal, Crude Petroleum and Natural Gas	137,258	0	17,978	0	0	0	0	0	0	0	0	119,280	0
Mining and Quarrying	Mining of Metal Ores	0	0	0	0	0	0	0	0	0	0	0	0	0
Mining and Quarrying	Mining of nonmetallic minerals (except fuel)	374,424	11,217	0	0	0	0	55,729	19,132	0	96,264	128,712	33,412	29,958
Mining and Quarrying	Mining support services	8,684	0	0	0	0	0	0	0	0	0	0	0	8,684
Manufaturing	Manufaturing	1,178,370,247	22,836,084	3,165,284	3,477,798	5,328,185	34,951,685	16,742,619	134,360,156	264,487,862	113,561,317	104,716,335	88,031,641	386,711,281
Manufaturing	Manufacture of Food Products	48,582,928	238,293	95,391	340,295	28,932	263,448	673,756	7,541,962	13,998,796	3,756,371	7,900,838	1,989,609	11,755,237
Manufaturing	Manufacture of Beverages	6,919,152	406,168	0	0	0	72,066	379,325	24,855	2,089,670	48,827	2,079,055	723,474	1,095,712
Manufaturing	Manufacture of Tobacco Products	3,184,509	0	0	0	0	0	0	13,312	0	231,732	0	0	2,939,465
Manufaturing	Manufacture of Textiles	16,766,866	261,891	103,473	285,550	23,567	194,131	28,829	1,885,400	10,007,175	1,993,652	457,659	440,261	1,085,278
Manufaturing	Manufacture of Wearing apparel, Clothing Accessories and	22,344,036	297,165	103,230	23,001	94,948	354,967	1,128,319	4,091,460	4,469,441	2,484,524	2,663,894	1,763,299	4,869,788
Manufaturing	Manufacture of Leather Luggage and Footwear	4,549,691	24,919	70,033	62,782	70,313	0	0	878,524	557,291	465,198	782,344	929,159	709,128
Manufaturing	Manufacture of Wood and of Products of Wood and Cork, E	1,478,275	109,022	149,681	14,284	0	44,289	45,455	680,443	190,663	213,421	31,017	0	0
Manufaturing	Manufacture of Pulp, Paper and Paper Products	14,124,318	373,518	219,638	19,681	0	601,782	503,621	4,342,564	2,457,675	1,867,634	2,477,991	462,234	797,980
Manufaturing	Printing and Reproduction of Recorded Media	1,404,020	110,504	26,633	11,530	33,859	11,968	50,841	345,782	253,069	143,631	147,222	112,055	156,926
Manufaturing	Manufacture of Coke, hard-coal and lignite fuel briquettes a	115,770,697	0	0	0	0	0	31,654	87,856	112,438,856	51,825	339,331	155,328	2,665,847
Manufaturing	Manufacture of Chemicals and Chemical Products except	120,207,715	628,559	252,099	56,356	77,755	462,470	341,902	4,895,355	10,252,175	17,023,247	20,028,164	14,832,217	51,357,416
Manufaturing	Manufacture of pharmaceuticals and Medicinal Chemicals	13,514,071	384,807	47,243	0	702,152	62,314	211,510	1,419,044	1,675,312	1,590,685	1,199,680	2,453,603	3,767,721
Manufaturing	Manufacture of Rubber and Plastic Products	30,792,211	627,180	242,171	382,228	485,938	359,859	553,706	9,808,814	5,449,023	2,657,687	3,416,213	459,988	6,349,404
Manufaturing	Manufacture of Other Non-metallic Mineral Products	23,947,979	1,775,236	524,105	49,980	84,842	348,549	382,483	3,080,836	4,561,796	1,420,247	1,942,645	2,780,652	6,996,608
Manufaturing	Manufacture of Basic Metal Products	121,770,426	1,349,271	25,267	73,911	113,565	257,242	1,203,584	21,875,348	29,543,071	5,381,505	9,565,944	11,427,158	40,954,560
Manufaturing	Manufacture of Fabricated and Processed Metal Products,	20,311,817	963,496	305,446	149,056	393,130	504,177	118,724	3,935,276	5,392,702	2,944,785	1,426,894	1,783,142	2,394,989
Manufaturing	Manufacture of Electronic Components, Computer, Radio,	271,307,074	4,389,044	461,480	350,908	933,577	29,834,256	4,892,661	14,587,610	18,235,801	35,839,530	11,968,139	7,845,069	141,968,999
Manufaturing	Manufacture of Medical, Precision and Optical Instruments	7,396,614	494,976	48,311	0	37,194	570,183	45,582	777,537	839,237	608,222	855,538	713,735	2,406,099
Manufaturing	Manufacture of Electrical equipment	40,482,496	3,167,668	0	233,381	1,797,342	400,582	948,658	14,665,794	6,612,901	2,349,184	2,274,760	3,311,533	4,720,693
Manufaturing	Manufacture of Other Machinery and Equipment	54,558,065	1,554,023	392,938	191,747	167,274	118,196	343,621	12,859,465	12,526,465	8,874,161	3,588,205	6,919,771	7,022,199
Manufaturing	Manufacture of Motor Vehicles, Trailers and Semitrailers	154,192,845	520,603	85,629	288,884	171,331	426,191	998,387	19,234,847	17,847,003	22,237,799	4,738,711	27,062,846	60,580,614
Manufaturing	Manufacture of Other Transport Equipment	78,897,576	4,966,961	0	940,135	0	22,492	3,854,890	5,703,898	3,483,742	519,963	26,570,212	1,755,226	31,080,057
Manufaturing	Manufacture of Furniture	4,191,538	44,237	12,516	0	89,018	42,523	0	1,215,246	1,237,610	539,189	219,073	79,533	712,593
Manufaturing	Other Manufacturing	1,675,328	148,543	0	4,089	23,448	0	5,111	408,928	368,388	318,298	42,806	31,749	323,968
Electricity, gas, steam	Electricity, gas, steam	49,283,849	121,287	0	0	0	0	29,636	732,804	23,090,229	11,816,197	5,466,155	1,640,949	6,386,592
Electricity, gas, steam	Electricity, gas, steam and air conditioning supply	49,283,849	121,287	0	0	0	0	29,636	732,804	23,090,229	11,816,197	5,466,155	1,640,949	6,386,592
Sewage and Wastew	Sewage and Wastewater Treatment Services & Restoratio	1,728,311	47,308	0	0	0	67,925	8,840	851,070	201,193	70,151	104,883	47,425	329,516
Sewage and Wastew	Sewage, Wastewater and Human Waste Treatment Servic	260,844	0	0	0	0	0	8,840	21,020	5,012	0	87,315	0	138,657

Name :

Period : STATISTICS KOREA

Annual sales by net profit Ratio to annual sales to annual sales and industrial classification 2-digit

Annual/2010~2010

By industry		Annual sales	The net profit ratio for this term -10%	-10% ≤The net profit ratio for this term< -8%	-8% ≤The net profit ratio for this term< -6%	-6% ≤The net profit ratio for this term< -4%	-4% ≤The net profit ratio for this term< -2%	-2% ≤The net profit ratio for this term< 0%	0% ≤The net profit ratio for this term< 2%	2% ≤The net profit ratio for this term< 4%	4% ≤The net profit ratio for this term< 6%	6% ≤The net profit ratio for this term< 8%	8% ≤The net profit ratio for this term< 10%	10% ≤The net profit ratio for this term<
Whole industry	Whole industry	2,414,284,585	54,290,093	4,958,097	6,961,641	12,043,370	53,625,592	44,817,352	519,106,657	461,417,664	358,819,115	241,330,271	152,283,605	504,631,128
Whole industry(excep	Whole industry(except for financial institutions& insurance	1,876,772,080	50,000,081	4,798,710	6,129,199	11,934,263	49,530,742	32,334,221	315,273,049	396,655,821	262,819,499	162,406,693	120,003,550	464,897,254
Sewage and Wastew	Waste Collection, Disposal and Materials Recovery	1,434,296	47,308	0	0	0	67,925	0	802,862	196,181	70,151	17,568	47,425	184,876
Sewage and Wastew	Decontamination and Restoration Activities of Environmen	33,171	0	0	0	0	0	0	27,188	0	0	0	0	5,983
Construction	Construction	135,891,884	16,505,787	444,027	1,176,167	1,782,005	4,866,528	999,931	35,551,739	25,578,589	35,872,029	7,242,342	1,462,619	4,410,113
Construction	General Construction	116,562,531	16,001,057	400,589	1,175,780	1,689,861	4,715,355	581,858	29,235,385	20,810,716	32,150,550	6,146,218	910,284	2,744,878
Construction	Special Trade Construction	19,329,353	504,730	43,448	387	92,144	151,173	418,073	6,316,354	4,767,872	3,721,479	1,096,124	552,334	1,665,235
Wholesale and Retai	Wholesale and Retail trade	256,817,576	2,414,517	552,927	488,213	1,154,499	3,389,461	10,067,562	106,126,766	43,625,091	29,894,869	19,377,377	19,494,038	20,232,357
Wholesale and Retai	Sale of Motor Vehicles and Parts	9,703,283	293,522	5,600	25,928	206,677	766,340	643,478	1,843,242	3,798,534	1,557,299	34,454	367,302	160,907
Wholesale and Retai	Wholesale Trade and Commission Trade	171,765,685	1,800,161	478,226	387,237	672,879	1,077,912	6,813,830	90,686,092	30,294,388	18,882,864	5,182,513	6,063,777	9,425,806
Wholesale and Retai	Retail Trade, Except Motor Vehicles	75,348,608	320,834	69,001	75,048	274,943	1,545,209	2,610,254	13,597,432	9,532,169	9,454,705	14,160,410	13,062,959	10,645,644
Transportation	Transportation	90,128,834	3,373,572	86,236	478,940	2,406,778	380,487	1,658,838	18,879,381	18,705,201	35,302,233	4,106,049	1,014,298	3,736,821
Transportation	Land Transport ; Transport Via Pipelines	15,846,873	306,402	50,477	122,686	233,534	319,150	747,109	3,525,417	6,409,131	2,455,262	560,499	180,619	936,587
Transportation	Water Transport	39,126,849	2,675,556	0	26,081	2,009,263	0	39,404	10,758,996	9,859,841	9,706,253	2,907,049	162,396	982,010
Transportation	Air Transport	17,373,098	0	0	268,010	0	0	0	0	0	16,670,620	115,998	0	318,470
Transportation	Storage and support activities for transportation	17,782,014	391,614	35,759	62,163	163,981	61,337	872,325	4,594,968	2,436,229	6,470,098	522,503	671,283	1,499,754
Accommodation and	Accommodation and Food Service Activities	14,993,305	301,072	151,171	13,473	160,478	737,714	364,935	2,524,700	4,142,968	1,898,963	977,351	182,880	3,537,600
Accommodation and	Accommodation	7,359,213	230,433	26,202	0	153,554	728,832	12,504	546,324	1,930,418	292,823	545,571	102,800	2,789,652
Accommodation and	Food and beverage service activities	7,634,092	70,639	124,969	13,473	6,924	8,882	352,431	1,978,376	2,212,550	1,606,140	431,680	80,080	747,948
Publishing, video bro	Publishing, video broadcast communications and informa	91,511,286	2,024,297	298,183	309,363	499,506	3,291,306	1,172,957	6,201,748	5,542,409	27,608,442	13,400,251	5,737,195	25,426,629
Publishing, video bro	Publishing activities	24,025,945	1,307,246	119,573	246,141	131,385	388,345	379,476	3,132,166	3,215,610	4,225,351	1,521,544	4,380,489	4,978,519
Publishing, video bro	Motion picture, video and television programme production	1,644,229	162,430	0	0	0	0	0	93,700	307,606	127,251	812,224	0	141,018
Publishing, video bro	Broadcasting	5,656,496	142,875	159,440	18,836	47,929	125,407	236,166	776,343	438,936	55,890	680,976	595,863	2,377,835
Publishing, video bro	Telecommunications	45,917,524	271,959	0	0	36,061	2,432,861	149,845	176,219	17,969	20,666,759	9,929,574	3,677	13,232,791
Publishing, video bro	Computer programming, System Integration and Manage	9,409,146	43,966	0	40,651	215,833	268,418	0	1,584,446	1,285,678	2,472,420	965,880	606,303	1,925,545
Publishing, video bro	Information service activities	4,857,936	95,922	19,070	2,735	68,278	76,277	407,470	438,874	276,711	60,771	490,044	150,863	2,770,921
Financial and Insura	Financial and Insurance Services	537,512,505	4,290,012	159,387	833,442	109,107	5,094,850	12,483,131	203,833,609	64,761,843	95,999,617	77,923,578	32,200,055	39,743,874
Financial and Insura	Financial institutions, Except Insurance and Pension Fund	326,448,427	2,753,969	159,387	360,133	109,107	383,237	9,853,293	152,061,377	22,653,334	45,139,835	42,385,268	20,305,437	30,284,050
Financial and Insura	Insurance and Pension Funding	155,665,998	1,055,188	0	473,309	0	4,229,254	2,550,218	42,957,327	32,801,880	37,268,145	26,680,401	3,832,471	3,817,805
Financial and Insura	Activities Auxiliary to Financial Service and Insurance Activi	55,399,080	480,855	0	0	0	492,359	79,620	8,814,905	9,306,629	13,591,637	8,857,909	8,142,147	5,642,019
Real Estate Activities	Real Estate Activities and Renting and Leasing	9,199,066	193,345	21,054	10,182	8,903	440,655	274,668	1,361,389	4,929,832	714,786	263,416	119,096	861,742
Real Estate Activities	Real Estate Activities	7,711,722	192,712	21,054	10,182	8,903	440,655	274,668	1,254,054	4,318,901	440,370	121,389	16,427	612,407
Real Estate Activities	Leasing (except real estate)	1,487,346	633	0	0	0	0	0	107,335	610,931	274,416	142,027	102,669	249,335
Professional, scientif	Professional, scientific and technical activities	22,875,119	1,001,082	29,924	94,311	76,713	252,850	251,784	2,378,250	3,040,662	3,901,521	4,249,772	1,176,894	6,421,356
Professional, scientif	Research and Development	532,231	23,339	12,018	0	0	0	4,984	80,479	59,701	211,615	0	0	140,095
Professional, scientif	Professional Services	11,501,462	202,621	17,906	39,404	25,353	98,519	57,534	741,223	704,274	1,721,881	3,382,319	863,195	3,647,233
Professional, scientif	Architectural, Engineering and Other Scientific Technical S	10,737,380	735,530	0	54,907	51,360	117,812	189,266	1,545,469	2,276,687	1,961,855	867,453	311,628	2,625,613
Professional, scientif	Professional, Scientific and Technical Services, n.e.c.	104,046	39,592	0	0	0	36,719	0	11,079	0	6,170	0	2,071	8,415
Business Facilities M	Business Facilities Management and Business Support S	12,768,339	363,666	1,174	12,657	158,486	68,938	609,901	3,950,132	2,296,859	1,622,690	925,188	156,267	2,602,381
Business Facilities M	Business Facilities Management and Landscape Services	2,927,728	4,455	1,174	1,924	120,381	25,432	215,869	677,403	775,194	635,999	163,526	14,047	292,324
Business Facilities M	Business Support Services	9,840,611	359,211	0	10,733	38,105	43,506	394,032	3,272,729	1,521,666	986,691	761,662	142,220	2,310,057
Education	Education	1,946,318	248,410	0	0	154,282	16,393	21,041	562,183	82,293	79,246	69,985	168,662	543,823
Education	Education	1,946,318	248,410	0	0	154,282	16,393	21,041	562,183	82,293	79,246	69,985	168,662	543,823
Human Health and S	Human Health and Social Work Activities	5,054	0	0	0	0	0	0	0	0	1,148	3,906	0	0
Human Health and S	Human Health	0	0	0	0	0	0	0	0	0	0	0	0	0
Human Health and S	Social Work Activities	5,054	0	0	0	0	0	0	0	0	1,148	3,906	0	0
Art, sports and recrea	Art, sports and recreation related services	7,813,796	511,411	30,842	54,217	195,878	66,800	73,589	318,379	377,882	188,215	2,335,430	528,207	3,132,946
Art, sports and recrea	Creative, Arts, and Recreation related services	242,086	4,488	0	0	0	4,922	0	7,377	126,327	525	37,518	0	60,929
Art, sports and recrea	Sports Activities and Amusement Activities	7,571,710	506,923	30,842	54,217	195,878	61,878	73,589	311,002	251,555	187,690	2,297,912	528,207	3,072,017
Repair and Other Per	Repair and Other Personal Services	1,876,187	40,223	0	0	8,550	0	2,191	1,348,616	201,486	62,922	9,070	31,767	171,362
Repair and Other Per	Maintenance and Repair Services	1,728,972	13,089	0	0	8,550	0	0	1,301,725	189,903	43,753	9,070	24,925	137,957
Repair and Other Per	Other Personal Services Activities	147,215	27,134	0	0	0	0	2,191	46,891	11,583	19,169	0	6,842	33,405

Anti-dumping Commission calculation of profit under 269TAC(2)(c)INV 221 Wind Towers

Manufacture of Fabricated and Processed Metal Products, Except Machinery and Furnitu

By industry	Manufaturing	Category Profit Ratio	Profit/Loss
The net profit ratio for this term< -10%	963,496	-10	-96,350
-10% ≤The net profit ratio for this term< -8%	305,446	-9	-27,490
-8% ≤The net profit ratio for this term< -6%	149,056	-7	-10,434
-6% ≤The net profit ratio for this term< -4%	393,130	-5	-19,657
-4% ≤The net profit ratio for this term< -2%	504,177	-3	-15,125
-2% ≤The net profit ratio for this term< 0%	118,724	-1	-1,187
0% ≤The net profit ratio for this term< 2%	3,935,276	1	39,353
2% ≤The net profit ratio for this term< 4%	5,392,702	3	161,781
4% ≤The net profit ratio for this term< 6%	2,944,785	5	147,239
6% ≤The net profit ratio for this term< 8%	1,426,894	7	99,883
8% ≤The net profit ratio for this term< 10%	1,783,142	9	160,483
10% ≤The net profit ratio for this term	2,394,989	10	239,499
Annual sales	20,311,817		677,995
		Weighted average profit	3.34%
		Gross up on CTMS	3.5%

Method

Data for fabricated and processed metal products was used.
The profit on sales is shown in 12 ranges from < -10% to =< 10%.
Profit calculatedfor each range based on the midpoint, except for the first and last range.
First and last range is calculated on the lower end for each as shown.
A weighted average profit using the profit calculated over the total sales.
Profit grossed up to obtain a profit on cost to make and sell.